















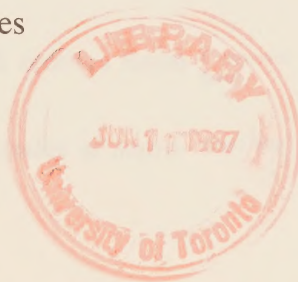
Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto



# Bill 81

## An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. K. Keyes  
*Solicitor General*



*1st Reading*      June 8th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*



### EXPLANATORY NOTE

The purpose of the Bill is to increase the size of the Metropolitan Board of Commissioners of Police from five to seven members. Under the Bill, the Metropolitan Council and the Lieutenant Governor in Council will each appoint one additional member to the Board.



**Bill 81****1987**

**An Act to amend the  
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clauses 177 (1) (b) and (c) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, are repealed and the following substituted therefor:

- (b) two members of the Metropolitan Council appointed by the Metropolitan Council; and
- (c) four persons appointed by the Lieutenant Governor in Council.

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1987*. Short title





# Bill 82

## An Act to amend the Construction Lien Act, 1983

The Hon. E. Fulton

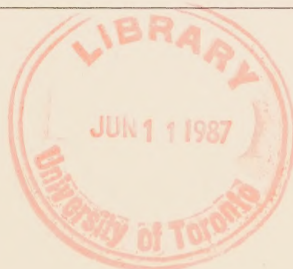
*Minister of Transportation and Communications*

*1st Reading*      June 8th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*



## EXPLANATORY NOTE

Subsection 3 (1) of the Act is recast to remove the reference to the *Ministry of Transportation and Communications Creditors Payment Act*. The effect is that contracts that were covered by that Act will fall under the *Construction Lien Act, 1983*. A bill repealing the *Ministry of Transportation and Communications Creditors Payment Act* is to be introduced in conjunction with this Bill.

**Bill 82****1987****An Act to amend the Construction Lien Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 3 (1) of the *Construction Lien Act, 1983*, being chapter 6, is repealed and the following substituted therefor:

(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown.

Act binds  
Crown

**2.** The *Construction Lien Act, 1983* does not apply in respect of labour, material or services supplied as a result of a contract, as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, made before this Act comes into force.

Limited  
application

**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-  
ment

**4.** The short title of this Act is the *Construction Lien Amendment Act, 1987*.

Short title





# Bill 83

## **An Act to repeal the Ministry of Transportation and Communications Creditors Payment Act**

The Hon. E. Fulton

*Minister of Transportation and Communications*

---

*1st Reading*      June 8th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

#### EXPLANATORY NOTE

The repeal of the Act is brought forward in conjunction with an amendment to the *Construction Lien Act, 1983* whereby it is considered that suppliers shall receive better protection.



**Bill 83****1987**

**An Act to repeal the  
Ministry of Transportation and Communications  
Creditors Payment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The *Ministry of Transportation and Communications Creditors Payment Act*, being chapter 290 of the Revised Statutes of Ontario, 1980, is repealed.

**2.—(1)** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**(2)** Notwithstanding section 1, the *Ministry of Transportation and Communications Creditors Payment Act* continues to apply in respect of labour, material or services supplied as a result of a contract, as defined in that Act, made before this Act comes into force. Continued  
application

**3.** The short title of this Act is the *Ministry of Transportation and Communications Creditors Payment Repeal Act, 1987*. Short title



# Bill 84

## An Act to revise the Race Tracks Tax Act

The Hon. R. Nixon  
*Minister of Revenue*



---

*1st Reading*      June 8th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---



## EXPLANATORY NOTES

The Bill replaces the *Race Tracks Tax Act* and recognizes and takes into account changes in race track practices and the pari-mutuel betting system. As well, the Bill updates administrative and enforcement provisions. Among the principal features of the new Act proposed by the Bill are the following:

1. Race tracks tax is imposed on every person placing a bet in Ontario under the pari-mutuel system on horse races. The rate of tax remains at 9 per cent on triactor bets and 7 per cent on other bets.
2. The person with whom the bet is placed, referred to as the “operator”, collects the tax at the time the bet is placed, holds the tax in trust for the Crown and is required to remit the tax to the Treasurer of Ontario.
3. The Act contains administrative and enforcement provisions consistent with other Ontario taxing statutes, including,
  - (a) the requirement for the filing of returns by the operator reporting and accounting for the tax collected;
  - (b) the requirement that operators maintain adequate books and records accounting for the tax;
  - (c) the authority for the Minister of Revenue to audit the operator's books and records to verify the amount of tax collected or collectible under the Act and to issue tax assessments if required;
  - (d) the assessment of administrative penalties payable by an operator who fails to collect the tax as required under the Act, fails to remit the tax or fails to file the required return;
  - (e) the imposition of interest charges on late remittances of tax collected and on overdue assessments;
  - (f) the authority for the Minister of Revenue to take legal action or issue a warrant to enforce collection of amounts payable under the Act;
  - (g) the right of an operator to object to and appeal from an assessment of tax or administrative penalties;
  - (h) the authority to prosecute for the offences of failure to collect tax, failure to file a return, failure to remit tax, the making of false returns and the destruction or alteration of books of account to attempt to evade tax; and
  - (i) the non-disclosure of information obtained by the Ministry of Revenue under the Act except in limited circumstances for specified purposes.
4. The Lieutenant Governor in Council is empowered to make regulations relating to such matters as the method of collection and remittance of tax, the delegation of the administrative powers and duties of the Minister of Revenue under the Act to officials of the Ministry of Revenue and the rate of interest charged under the Act on late payments.

**Bill 84**

**1987**

## **An Act to revise the Race Tracks Tax Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Definitions

“assessment” includes a reassessment;

“bet” means a bet placed under the system known as pari-mutuel wagering upon a race run at a race meeting;

“Minister” means the Minister of Revenue;

“operator” means a person who,

- (a) operates a race course,
- (b) conducts a race meeting, or
- (c) is in any manner the custodian or depository of money that is staked or deposited in the placing of a bet upon a race run at a race meeting;

“person”, in addition to its meaning in the *Interpretation Act*, includes a partnership, an unincorporated association or club and an agricultural society constituted under the *Agricultural Societies Act*;

R.S.O. 1980,  
c. 219

R.S.O. 1980,  
c. 14

“prescribed” means prescribed by the regulations;

“race meeting” means a series of horse races conducted by an operator;

“regulations” means the regulations made under this Act;

“Treasurer” means the Treasurer of Ontario and Minister of Economics;

“triator bet” means a bet in which the person placing the bet undertakes to select in the exact order of finish the first three horses to finish in a race.

Tax rate

**2.** Every person who places a bet in Ontario upon a race run at a race meeting held in Ontario or elsewhere shall pay to Her Majesty in right of Ontario a tax equal to,

- (a) 9 per cent of the amount of money deposited by the person with the operator at the time he or she places a triactor bet; and
- (b) 7 per cent of the amount of money deposited by the person with the operator at the time he or she places a bet other than a triactor bet.

Tax collection

**3.—(1)** Every operator shall collect the tax under section 2 as agent of Her Majesty in right of Ontario from the person placing the bet by deducting it from the money deposited with the operator by the person placing the bet before recording and applying the money in the placing of the bet.

Duties of an operator

(2) Every operator shall,

- (a) be deemed to hold all amounts the operator collects under this Act in trust for Her Majesty in right of Ontario;
- (b) keep all amounts collected under this Act separate and apart from the operator's own moneys; and
- (c) remit all amounts collected under this Act to the Treasurer in the manner and at the time prescribed.

Interest on unremitted tax

(3) If an operator fails to remit the tax collected by the operator under this Act to the Treasurer at the time prescribed, the operator is liable to pay to the Treasurer interest on the unremitted tax at the prescribed rate or rates from the day the tax should have been remitted to the day on which the tax is remitted.

Tax return

(4) Every operator required to collect tax under this Act shall submit a return accounting for the tax collected to the Minister for the period and at the time prescribed.

Extended time for making returns

(5) The Minister may enlarge the time for making any return before or after the time prescribed for making it.

(6) No person acting as an agent of Her Majesty in right of Ontario under this section shall thus be made ineligible as a member of the Assembly.

Member of  
Assembly

**4.**—(1) Every operator shall keep records and books of account of such nature and in such manner as is prescribed.

Records and  
books of  
account

(2) Records and books of account required to be kept under subsection (1) shall be kept,

Location of  
records and  
books of  
account

- (a) at the operator's place of business or residence in Ontario; or
- (b) at a place in Ontario or elsewhere approved in writing by the Minister, under any terms and conditions the Minister may impose.

(3) If, in the opinion of the Minister, an operator fails to keep adequate records and books of account for the purposes of this Act, the Minister may, by notice in writing, require the operator to keep, and the operator shall keep, such records and books of account as are specified in the notice.

Requirement  
by Minister  
to keep  
records

(4) Every operator shall retain all records and books of account, together with every account and voucher necessary to verify the information contained therein, until such time as all prescribed terms or conditions have been met.

Records  
retention  
period

**5.**—(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter any premises or place where an operator carries on business or keeps books and records and may,

Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates to or may relate to the tax imposed by this Act or any return required under this Act;
- (b) examine any property, process or matter that, in his or her opinion, may assist in determining or ascertaining,
  - (i) the information that is or should be in the books and records,
  - (ii) the amount of any tax imposed by this Act, or



(iii) whether or not a return is required under this Act; and

- (c) require the operator or the operator's employees or agents to give all reasonable assistance with the audit or examination and to answer all proper questions relating to the audit or examination either orally or, if so required in writing, on oath or by statutory declaration and for that purpose may require that person to attend at the premises or place.

Obstruction (2) No person shall obstruct or interfere with any person authorized by the Minister under subsection (1) in the exercise of his or her powers under this section.

Demand for information **6.** For the purpose of obtaining any information that the Minister considers necessary for the purposes of this Act, the Minister may demand from any person such information as is indicated in a letter delivered personally or sent by registered or certified mail to the person, and the person shall furnish to the Minister all such information that the person has in his or her personal possession or under his or her control, in writing, within such reasonable period of time after the delivery or sending of the letter as is stipulated therein.

Assessment of tax collected **7.—(1)** Where an operator fails to submit a return or fails to remit amounts collected under this Act as required under this Act or the regulations, or if the return is not substantiated by the operator's records, the Minister may make an assessment of the tax collected by the operator at any time and such assessed amount shall be deemed to be the tax collected by the operator.

Idem (2) The Minister is not bound by a return submitted or information furnished by or on behalf of an operator and may, whether or not a return has been submitted, make an assessment of the tax collected by the operator at any time.

Continuing liability (3) Liability to remit tax collected under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Notice of assessment (4) Where the Minister makes an assessment under this section or section 8, the Minister shall serve by prepaid mail or by personal service a notice of assessment on the operator and the operator shall, within thirty days of the day of mailing or of personal service of the notice of assessment, remit to the Treasurer all amounts assessed and not previously paid or remitted by the operator, together with any interest thereon

payable under subsection 3 (3), whether or not an objection to or appeal from the assessment is outstanding.

(5) Where in the opinion of the Minister an operator is attempting to avoid payment of an amount assessed under this Act, the Minister may, notwithstanding subsection (4), direct that all amounts set out in the notice of assessment be paid forthwith.

Payment  
forthwith

(6) Any assessment made under this section or section 8, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Assessment  
valid and  
binding

**8.—**(1) Every operator who fails to collect tax as required under this Act shall pay a penalty, when assessed therefor, equal to the amount of tax that the operator failed to collect.

Penalty  
for non-  
collection of  
tax

(2) Every operator who fails to submit a return or fails to remit the tax collected as required by this Act and the regulations shall pay a penalty, when assessed therefor, equal to the greater of,

Penalty for  
failure to  
submit return  
or to remit  
tax

(a) \$25; and

(b) 10 per cent of the amount of tax collected and not remitted.

(3) Where the Minister is satisfied that an operator's failure to collect the tax that should have been collected under this Act is attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the operator, in lieu of any penalty that may be assessable under subsection (1), equal to the aggregate of the amount of tax the operator failed to collect and the greater of,

Where tax  
not collected  
because of  
neglect,  
fraud, etc.

(a) \$100; and

(b) 25 per cent of the amount of tax the operator failed to collect.

(4) No penalty may be assessed under subsection (1) or (2) more than three years after the date when the tax was required to be collected under this Act, the operator was required to submit a return under this Act and the regulations or the operator was required to remit the tax under this Act, as the case may be.

Penalty  
assessment  
time limit

- Idem (5) A penalty under subsection (3) may be assessed more than three years after the date when the tax was required to be collected under this Act.
- Interest (6) Any penalty assessed by the Minister under this section shall, if it is not paid within the time provided in subsection 7 (4), bear interest, at such rate as is prescribed, calculated from thirty days after the day of mailing or of personal service of the notice of assessment of the penalty until the day of payment.
- Surety bond **9.—**(1) The Minister may require an operator to deposit with the Treasurer a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister.
- Disposal of surety bond (2) Where an operator who has deposited a bond with the Treasurer under subsection (1) has failed to collect or remit tax as required under this Act and the regulations, the Minister may apply the bond in whole or in part to the amount that should have been collected or remitted and shall forthwith give written notice thereof to the operator by registered mail or personal service.
- Recovery of tax **10.—**(1) Upon default of payment by an operator of any amount payable under this Act, the Minister may,
- (a) bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by a successor of the Minister in office as if no change had occurred and shall be tried without a jury;
  - (b) issue a warrant directed to the sheriff of any county or district in which any property of the operator is located or situate for the amount owing by the operator, together with interest thereon from the date of the issue of the warrant and the fees and expenses of the sheriff, and the warrant has the same force and effect as a writ of seizure and sale issued out of the Supreme Court.
- Idem (2) The use of any remedy provided by subsection (1) does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of amounts due under this Act are in addition to any other remedies existing by law, and no

action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise.

**11.** The provisions of sections 22, 23, 24, 25, 26, 27 and 28 of the *Retail Sales Tax Act* apply with necessary modifications for the purposes of objections and appeals by an operator of assessments of tax or penalties under section 7 or 8 of this Act.

Objections  
R.S.O. 1980,  
c. 454

**12.—**(1) Every operator who fails to submit a return to the Minister or to remit the tax collected under this Act to the Treasurer as required by this Act and the regulations is guilty of an offence and, in addition to any penalty otherwise provided under this Act, is liable on conviction to a fine of not less than \$100 and not more than double the amount of tax collected and not remitted.

Offences

(2) Every person who has,

Idem

- (a) made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations made under this Act;
- (b) to evade collection or remittance of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of records or books of account;
- (c) made, assented to or acquiesced in the making of false or deceptive entries or omitted, or assented to or acquiesced in the omission to enter a material particular in records or books of account; or
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of,

- (e) not less than the greater of \$500 and 25 per cent of the tax that was not remitted or was not collected; and
- (f) not more than twice the amount of such tax,

or to imprisonment for a term of not more than two years, or to both fine and imprisonment.



Idem (3) Every operator who fails to collect the tax imposed by this Act is guilty of an offence and, in addition to any penalty otherwise provided under this Act, is liable on conviction to a fine equal to the amount of tax that should have been collected as determined under subsection (4) and, in addition, an amount not less than \$50 and not more than \$2,000.

Determination of tax (4) The Minister shall determine the amount of tax referred to in subsection (3) from such information as is available to the Minister and shall issue a certificate as to the amount, but, except where the Minister considers there has been a deliberate evasion of this Act, the Minister shall not consider a period of more than three years in determining the amount of tax that should have been collected.

Certificate of tax (5) In any prosecution under subsection (3), a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is *prima facie* proof of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Idem (6) Every person who contravenes or fails to comply with,  
(a) subsection 4 (1), (2), (3) or (4);  
(b) clause 5 (1) (c); or  
(c) subsection 5 (2),

of this Act is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the contravention or failure exists.

General offence (7) Every person who contravenes, or fails to comply with, any of the provisions of this Act or the regulations is guilty of an offence and, if no other fine is provided for that offence under this Act, is liable upon conviction to a fine of not less than \$100 and not more than \$2,500.

Idem (8) Every individual who directed, authorized, assented to, acquiesced in or participated in the commission of any act or omission which is an offence under this Act and for which a corporation, agricultural society, association or club would be liable for prosecution under this Act is guilty of an offence and on conviction is liable to the punishment provided for the offence, whether or not the corporation, agricultural society, association or club has been prosecuted or convicted.

(9) Proceedings shall not be commenced in respect of an offence under this Act six years after the date on which the offence was, or is alleged to have been, committed. Limitation

(10) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax under this Act or of any penalty assessed under section 8. Other remedies not affected

**13.**—(1) Except as authorized by this section, no person employed by the Government of Ontario shall, Confidentiality

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceedings, Non-disclosure

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of, Exceptions

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax or a penalty under this Act.

(4) A person employed by the Government of Ontario may, in the course of his or her duties in connection with the administration or enforcement of this Act, Idem



- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Copies

(5) Notwithstanding anything in this Act, the Minister may permit a copy of any record or thing obtained by the Minister or on the Minister's behalf for the purposes of this Act to be given to,

- (a) the person from whom the record or thing was obtained; or
- (b) any person,
  - (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or
  - (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause (a) or (b) or the agent of any such person authorized in writing in that behalf.

Disclosure to  
other  
jurisdictions

(6) Notwithstanding anything in this or any other Act, the Minister may permit information or a copy of any record or thing obtained by the Minister or on the Minister's behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administering or enforcing an Act of the Parliament of Canada imposing any tax or duty; or

- (b) a minister of the government of any province or territory of Canada or officer or employee employed under that minister, for the purposes of administering or enforcing an Act or ordinance of the Legislature of that province or territory imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of the province or territory, as the case may be, is permitted to give to the Minister information or copies of any record or thing obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that province or territory, as the case may be, in the administration or enforcement of that Act for the purposes of the administration or enforcement of this Act.

(7) Notwithstanding anything in this Act or any other Act, Idem  
the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

(8) Every person, Offence

- (a) who contravenes subsection (1); or
- (b) to whom information has been provided under the authority of subsection (4), (5), (6) or (7) who uses, communicates or allows to be communicated such information for any purposes other than that for which it was provided,

is guilty of an offence and is liable on conviction to a fine of not more than \$200.

**14.—**(1) The Lieutenant Governor in Council may make regulations, Regulations:  
by  
Lieutenant  
Governor in  
Council

- (a) prescribing the method of collection and remittance of the tax imposed under this Act and any condition or requirement affecting the collection or remittance;
- (b) authorizing or requiring the Deputy Minister of Revenue or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;

- (c) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (d) prescribing the rate of interest payable under this Act or the regulations, or a formula for computing that rate, and the method of calculating that interest;
- (e) prescribing the records, books of account and information to be kept and maintained by an operator;
- (f) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations.

by Minister

(2) The Minister may make regulations,

- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form required by this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

may be  
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Repeals

**15.—**(1) The following are repealed:

- 1. The *Race Tracks Tax Act*, being chapter 428 of the Revised Statutes of Ontario, 1980.
- 2. The *Race Tracks Tax Amendment Act, 1981*, being chapter 5.

Application  
of  
R.S.O. 1980,  
c. 428

(2) Notwithstanding subsection (1), the *Race Tracks Tax Act* continues to apply in respect of taxes collected or collectable under that Act before the day this Act comes into force.

Commence-  
ment

**16.** This Act comes into force on the day it receives Royal Assent.

Short title

**17.** The short title of this Act is the *Race Tracks Tax Act, 1987*.





# Bill 85



## An Act to amend the Employment Standards Act

The Hon. W. Wrye  
*Minister of Labour*

*1st Reading*      June 15th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*



## EXPLANATORY NOTES

The purpose of the Bill is to improve entitlements for employees under the notice of termination and severance pay provisions of the Act and to improve administration of the Act. Among its principal features are:

1. Changes are made to the definitional provisions to broaden existing definitions in the Act, create definitions of terms previously undefined in the Act or create definitions of terms used in new provisions of the Act. (Section 1)
2. Plaintiffs pursuing civil proceedings based on the Act are required to notify the Director of Employment Standards. (Section 2)
3. There is a revised “single employer” provision. (Section 3)
4. Longer notice of termination requirements respecting individual employees are provided. (Subsection 4 (1))
5. Where so prescribed, employers must provide information to the Minister in cases of mass termination and the notice to employees does not start running until this is done. Where so prescribed, employers will also have to provide information to the employees. (Subsection 4 (2))
6. Provision is made for termination pay where employees on “temporary lay-off” are laid off for extremely long periods without notice. (Subsection 4 (3))
7. In certain circumstances, unions are allowed to postpone the right to termination pay on behalf of their members. (Subsection 4 (3))
8. Provision is made for paying termination pay to the Director in trust where employees retain their right to recall. (Subsection 4 (3))
9. Severance pay is to be paid not only where there are at least fifty terminations caused by a permanent discontinuance of all or part of the employer’s business but also where any employees are terminated by an employer or group of related companies having an annual payroll of at least \$2.5 million. (Subsection 5 (1))
10. Employees who may have been entitled to severance pay under the existing legislation do not become disentitled as a result of any changes.
11. An employee’s severance pay entitlement must reflect credit for partial years of employment. (Subsection 5 (1))
12. Employees fired for misconduct are not entitled to severance pay. (Subsection 5 (3))
13. Employees who quit their jobs after receiving notice of termination retain their entitlement to severance pay, provided that they give their employer notice. (Subsection 5 (5))
14. The Director of Employment Standards may approve payment of severance pay by instalments. (Subsection 5 (5))
15. Unions are allowed to make settlements regarding severance pay claims on behalf of their members. (Subsection 5 (5))
16. There is authority to make regulations to assist in the application and operation of the Act, and to prescribe forms to be used in connection with duties imposed by the Act. (Section 7)

## Bill 85

1987

**An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (d) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

(d) “employer” includes,

- (i) any owner, proprietor, manager, superintendent, overseer, receiver or trustee of any activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for the employment of a person therein; and
- (ii) any associated or related corporations, individuals, firms, syndicates or associations treated as one employer under section 12, where any one has control or direction of, or is directly or indirectly responsible for the employment of a person therein,

and includes a person who was an employer.

**(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 51, section 1, is further amended by adding thereto the following clauses:**

- (fa) “establishment” means a location at which the employer carries on business, but where the employer carries on business at more than one location, separate locations constitute one establishment if,
  - (i) the separate locations are located within the same municipality, or

- (ii) one or more employees at a location have seniority rights that extend to the other location by virtue of a collective agreement or written contract of employment whereby the employee or employees may displace another employee of the same employer;

. . . . .

(ja) “payroll” means, in respect of an employer, the greater of,

- (i) the wages earned by employees in the twelve-month period ending the last day of the last fiscal year established by the employer that ended prior to the termination of an employee’s employment,
- (ii) the wages earned by employees in the twelve-month period ending on the last day of the second last fiscal year established by the employer that ended prior to the termination of an employee’s employment, or
- (iii) the wages earned by employees in the four weeks that ended with the last day of the last pay period completed prior to the termination of an employee’s employment, multiplied by 13;

. . . . .

(ka) “prescribed” means prescribed by the regulations;

. . . . .

(nb) “statutory notice period” means,

- (i) the period of notice required to be given by an employer under section 40, or
- (ii) where the employer provides a greater amount of notice than is required by section 40, that part of the notice period ending with the termination date specified in the notice which equals the notice period required under section 40;

. . . . .

(oa) “trade union” means an organization which is,

- (i) a “trade union” as defined in the *Labour Relations Act*, R.S.O. 1980,  
c. 228
- (ii) an “affiliate” or “branch affiliate” as defined in the *School Boards and Teachers Collective Negotiations Act*, R.S.O. 1980,  
c. 464
- (iii) a bargaining committee of the full time fire fighters under the *Fire Departments Act*, R.S.O. 1980,  
c. 164
- (iv) an “employee organization” as defined in the *Colleges Collective Bargaining Act* which holds bargaining rights as bargaining agent, R.S.O. 1980,  
c. 74
- (v) a “bargaining agent” as defined in the *Crown Employees Collective Bargaining Act*. R.S.O. 1980,  
c. 108

**2. Section 6 of the said Act is amended by adding thereto the following subsection:**

(2) Where an employee initiates a civil proceeding against his or her employer under this Act, notice of the proceeding shall be served on the Director in the prescribed form on the same date the civil proceeding is set down for trial. Notice of  
proceeding to  
be given to  
Director

**3.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:**

(1) Where before or after this Act comes into force, associated or related activities, businesses, works, trades, occupations, professions, projects or undertakings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, and a person is or was an employee of any of such corporations, individuals, firms, syndicates or associations, or any combination thereof, such corporations, individuals, firms, syndicates or associations, or any combination thereof, shall be treated as one employer for the purposes of this Act, if the intent or effect of the arrangement is to defeat, either directly or indirectly, the true intent and purpose of this Act. Related  
activities,  
etc., may be  
treated as  
one employer

(2) Subsection 12 (2) of the said Act is amended by striking out “individually” in the second line and inserting in lieu thereof “jointly and severally”.

**4.—(1) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:**

Notice of  
termination

(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless the employer gives,

- (a) one week's notice in writing to the employee if his or her period of employment is less than one year;
- (b) two weeks notice in writing to the employee if his or her period of employment is one year or more but less than three years;
- (c) three weeks notice in writing to the employee if his or her period of employment is three years or more but less than four years;
- (d) four weeks notice in writing to the employee if his or her period of employment is four years or more but less than five years;
- (e) five weeks notice in writing to the employee if his or her period of employment is five years or more but less than six years;
- (f) six weeks notice in writing to the employee if his or her period of employment is six years or more but less than seven years;
- (g) seven weeks notice in writing to the employee if his or her period of employment is seven years or more but less than eight years;
- (h) eight weeks notice in writing to the employee if his or her period of employment is eight years or more,

and such notice has expired.

**(2) Section 40 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 1, is further amended by adding thereto the following subsections:**

Information  
to be given

(2a) Where so prescribed, an employer who is required to give notice by subsection (2),

- (a) shall provide to the Minister, in the prescribed form, such information as may be prescribed; and
- (b) shall, on the first day of the statutory notice period, post in the employer's establishment, in the prescribed form, such information as may be prescribed.



(2b) The employer shall post the information required by clause (2a) (b) in one or more conspicuous places in the employer's establishment where it is most likely to come to the attention of the affected employees and the employer shall keep the information posted throughout the statutory notice period. Posting

(2c) The information required under subsection (2a) may include, Idem

- (a) the economic circumstances surrounding the intended terminations;
- (b) any consultations which have been or are proposed to take place with local communities or with the affected employees or their agent in connection with the terminations;
- (c) proposed adjustment measures and the number of employees expected to benefit from each; and
- (d) a statistical profile of the affected employees.

(2d) Notwithstanding subsection (2), the notice required under subsection (2) shall be deemed not to have been given until the date the completed form required under clause (2a) (a) is received by the Minister. When notice is effective

(2e) The Minister shall cause every form received in his or her office under clause (2a) (a) to be endorsed with a memorandum of the date of its receipt. Memorandum of date form received

(2f) Where the completed form required under clause (2a) (a) has been received, the Minister shall cause a notice to that effect to be sent to the employer within two business days of such receipt. Notice to employer

(2g) A copy of the memorandum referred to in subsection (2e) purporting to be certified by the Minister is, without proof of the signature of the Minister, evidence of the date the form was received. Statement by Minister as to time

**(3) The said section 40 is further amended by adding thereto the following subsections:**

(10) If an employee is temporarily laid off, as defined in the regulations, and the lay-off commences on or after the 15th day of June, 1987 and equals or exceeds thirty-five weeks in any period of fifty-two consecutive weeks, the employee shall be deemed no longer to be temporarily laid off and, if Entitlement to termination pay



the employee has not been given notice of termination in accordance with this section, the employee is entitled to termination pay.

Application  
by trade  
union

(11) Where an employee may be entitled to termination pay under subsection (10) is represented by a trade union, the trade union may apply to the Director in writing to extend the periods specified in subsection (10) and if the application is approved by the Director, subsection (10) shall be read as if such longer periods were specified.

Election by  
employee

(12) An employee who is entitled to termination pay under subsection (10) and who has a right to be recalled for employment under the terms and conditions of employment may elect to be paid the termination pay forthwith or may elect to retain the right to be recalled.

Idem

(13) Where an employee elects under subsection (12) to be paid the termination pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Where no  
election  
made

(14) Where an employee entitled to make an election under subsection (12) elects to maintain the right to be recalled or fails to make an election, the employer shall pay the termination pay to the Director in trust to be paid by the Director,

- (a) to the employer, where the employee accepts employment made available under the right of recall and in such case the employee shall be deemed to have abandoned the right to termination pay; or
- (b) to the employee in any case other than a case mentioned in clause (a) including the case where the employee renounces the right to be recalled and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

**5.—(1) Subsection 40a (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed and the following substituted therefor:**

Definitions

(1) In this section,

“lay-off” means a period of at least one week in which an employee receives less than one-quarter of the wages he or she would earn at his or her regular rate in a regular non-overtime work week unless the employee,

- (a) was not able to work or not available for work,

- (b) was subject to disciplinary suspension, or
- (c) was not provided with work by his or her employer by reason of any strike or lock-out occurring at his or her place of employment or elsewhere;

“termination” means,

- (a) a dismissal, including a constructive dismissal,
- (b) a lay-off that is effected because of a permanent discontinuance of all of the employer’s business at an establishment, or
- (c) a lay-off, including a lay-off effected because of a permanent discontinuance of part of the business of the employer at an establishment, commencing on or after the 15th day of June, 1987 that equals or exceeds thirty-five weeks in any period of fifty-two consecutive weeks,

and “terminated” has a corresponding meaning.

(1a) Where,

Severance  
pay

- (a) fifty or more employees have their employment terminated by an employer in a period of six months or less and the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment; or
- (b) one or more employees have their employment terminated by an employer with a payroll of \$2.5 million or more,

the employer shall pay severance pay to each employee whose employment has been terminated and who has been employed by the employer for five or more years.

(1b) Where,

Where  
location  
deemed an  
establishment

- (a) there is a permanent discontinuance of all or part of the business of an employer at a location which is part of an establishment consisting of two or more locations; and
- (b) fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance,

the location shall be deemed to be an establishment for the purpose of determining the rights of the employees employed at that location under this section.

Amount of  
severance  
pay

(1c) The severance pay to which an employee is entitled under this section shall be in an amount equal to the employee's regular wages for a regular non-overtime work week multiplied by the sum of,

- (a) the number of the employee's completed years of employment; and
- (b) the number of the employee's completed months of employment divided by 12,

but shall not exceed twenty-six weeks regular wages for a regular non-overtime work week.

**(2) Subsection 40a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by,**

- (a) striking out "Subsection (1) applies" in the first line and inserting in lieu thereof "Subsections (1a), (1b) and (1c) apply"; and**
- (b) striking out clause (c) and substituting the following therefor:**
- (c) an employee who is absent because of illness or injury, if the employee's contract of employment has not become impossible of performance or been frustrated by that illness or injury.

**(3) Subsection 40a (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by the Statutes of Ontario, 1984, chapter 31, section 1, is further amended by,**

- (a) striking out "Subsection (1) does" in the first line and inserting in lieu thereof "Subsections (1a), (1b) and (1c) do"; and**
- (b) adding thereto the following clause:**
- (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

**(4) Subsection 40a (9) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 31, section 1, is repealed and the following substituted therefor:**

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director, Effect of election to maintain right to recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and in such case the employee shall be deemed to have abandoned the right to severance pay; or
- (b) to the employee in any case other than a case mentioned in clause (a), including the case where the employee renounces the right to be recalled, and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

**(5) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by 1984, chapter 31, section 1, is further amended by adding thereto the following subsections:**

(10) Where an employee who receives notice of termination on or after the 15th day of June, 1987 resigns from employment during the statutory notice period and provides the employer with at least two weeks written notice of resignation, the employee shall, Where employee resigns

- (a) where the employee has been given notice of termination because of the permanent discontinuance of all of the employer's business at an establishment, be deemed to have had his or her employment terminated by the employer on the date the notice of termination was to have taken effect; and
- (b) in any other case, be deemed to have been laid off by the employer commencing on the date the notice of termination was to have taken effect.

(11) The amount of severance pay for an employee who is entitled to severance pay under subsection (10) shall be calculated on the employee's length of employment up to the date on which his or her notice of resignation takes effect. Calculation of severance pay

(12) Notwithstanding subsections (1a) and (9) and section 7, where the Minister so recommends, the Director may, on Instalment payments

an application by the employer, approve the employer's plan to pay severance pay by instalment and, where such approval has been given, the employer shall be deemed to have complied with subsections (1a) and (9) and section 7.

Where employer fails to comply with plan

(13) Where an employer fails to comply with the approved plan and the Director does not approve another instalment plan within thirty days of such failure, all unpaid severance pay shall be deemed to have become due and payable on the date the Director approved the original instalment plan.

Maximum period for payment of instalments

(14) No instalment plan shall extend payment of severance pay for a period longer than three years from the date on which such severance pay became due and payable.

Where agreements made by trade union

(15) Notwithstanding section 3, where an employee who is entitled to severance pay under this section is represented by a trade union, the trade union may enter into an agreement with the employer which includes a settlement of all severance pay claims, in which case this section does not apply.

Director to be notified

(16) The parties to an agreement under subsection (15) shall forthwith notify the Director in writing.

Proceedings terminated

(17) Where there is an agreement under subsection (15), any proceeding under section 50 or 51 to determine severance pay is terminated with regard to the employees represented by the trade union.

**6. Section 51a of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 31, section 2, is amended by adding thereto the following subsection:**

Interest on trust moneys

(3) Where under this Act the Director is required to hold moneys in trust, the Director shall pay interest to the person entitled to receive such moneys at the prescribed rate of interest.

**7. Subsection 65 (1) of the said Act is amended by adding thereto the following clauses:**

(ta) prescribing rules for determining whether the termination of an employee who is not entitled to severance pay shall be taken into account in determining whether fifty or more employees have had their employment terminated in a period of six months or less, and whether the wages of an employee who is not entitled to severance pay shall be taken into account in determining the payroll of an employer;



- (tb) providing for the exclusion of weeks from the period of fifty-two consecutive weeks mentioned in the definition of “termination” in subsection 40a (1);
- (tc) prescribing forms and providing for their use;
- (td) defining any word or expression used in this Act that is not defined in this Act;
- (te) prescribing the manner in which information is to be given to the Minister under subsection 40 (2a);
- (tf) prescribing anything that by this Act is to be or may be prescribed.

**8.—(1)** This Act, except section 2, subsection 4 (2) and section 6, shall be deemed to have come into force on the 15th day of June, 1987. Commence-  
ment

(2) Section 2, subsection 4 (2) and section 6 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**9.** The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title







Bill 85

---

3RD SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

---

Bill 85

(Chapter 30  
*Statutes of Ontario, 1987*)



**An Act to amend the Employment Standards Act**

The Hon. W. Wrye  
*Minister of Labour*

---

<i>1st Reading</i>	June 15th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 29th, 1987
<i>Royal Assent</i>	June 29th, 1987

---





**Bill 85****1987****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (d) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

(d) “employer” includes,

- (i) any owner, proprietor, manager, superintendent, overseer, receiver or trustee of any activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for the employment of a person therein; and
- (ii) any associated or related corporations, individuals, firms, syndicates or associations treated as one employer under section 12, where any one has control or direction of, or is directly or indirectly responsible for the employment of a person therein,

and includes a person who was an employer.

**(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 51, section 1, is further amended by adding thereto the following clauses:**

- (fa) “establishment” means a location at which the employer carries on business, but where the employer carries on business at more than one location, separate locations constitute one establishment if,
  - (i) the separate locations are located within the same municipality, or

- (ii) one or more employees at a location have seniority rights that extend to the other location by virtue of a collective agreement or written contract of employment whereby the employee or employees may displace another employee of the same employer;

. . . . .

(ja) “payroll” means, in respect of an employer, the greater of,

- (i) the wages earned by employees in the twelve-month period ending the last day of the last fiscal year established by the employer that ended prior to the termination of an employee’s employment,
- (ii) the wages earned by employees in the twelve-month period ending on the last day of the second last fiscal year established by the employer that ended prior to the termination of an employee’s employment, or
- (iii) the wages earned by employees in the four weeks that ended with the last day of the last pay period completed prior to the termination of an employee’s employment, multiplied by 13;

. . . . .

(ka) “prescribed” means prescribed by the regulations;

. . . . .

(nb) “statutory notice period” means,

- (i) the period of notice required to be given by an employer under section 40, or
- (ii) where the employer provides a greater amount of notice than is required by section 40, that part of the notice period ending with the termination date specified in the notice which equals the notice period required under section 40;

. . . . .

(oa) “trade union” means an organization which is,

- (i) a “trade union” as defined in the *Labour Relations Act*, R.S.O. 1980, c. 228
- (ii) an “affiliate” or “branch affiliate” as defined in the *School Boards and Teachers Collective Negotiations Act*, R.S.O. 1980, c. 464
- (iii) a bargaining committee of the full time fire fighters under the *Fire Departments Act*, R.S.O. 1980, c. 164
- (iv) an “employee organization” as defined in the *Colleges Collective Bargaining Act* which holds bargaining rights as bargaining agent, R.S.O. 1980, c. 74
- (v) a “bargaining agent” as defined in the *Crown Employees Collective Bargaining Act*, R.S.O. 1980, c. 108

**2. Section 6 of the said Act is amended by adding thereto the following subsection:**

(2) Where an employee initiates a civil proceeding against his or her employer under this Act, notice of the proceeding shall be served on the Director in the prescribed form on the same date the civil proceeding is set down for trial. Notice of proceeding to be given to Director

**3.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:**

(1) Where before or after this Act comes into force, associated or related activities, businesses, works, trades, occupations, professions, projects or undertakings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, and a person is or was an employee of any of such corporations, individuals, firms, syndicates or associations, or any combination thereof, such corporations, individuals, firms, syndicates or associations, or any combination thereof, shall be treated as one employer for the purposes of this Act, if the intent or effect of the arrangement is to defeat, either directly or indirectly, the true intent and purpose of this Act. Related activities, etc., may be treated as one employer

(2) Subsection 12 (2) of the said Act is amended by striking out “individually” in the second line and inserting in lieu thereof “jointly and severally”.

**4.—(1) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:**

Notice of  
termination

(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless the employer gives,

- (a) one week's notice in writing to the employee if his or her period of employment is less than one year;
- (b) two weeks notice in writing to the employee if his or her period of employment is one year or more but less than three years;
- (c) three weeks notice in writing to the employee if his or her period of employment is three years or more but less than four years;
- (d) four weeks notice in writing to the employee if his or her period of employment is four years or more but less than five years;
- (e) five weeks notice in writing to the employee if his or her period of employment is five years or more but less than six years;
- (f) six weeks notice in writing to the employee if his or her period of employment is six years or more but less than seven years;
- (g) seven weeks notice in writing to the employee if his or her period of employment is seven years or more but less than eight years;
- (h) eight weeks notice in writing to the employee if his or her period of employment is eight years or more,

and such notice has expired.

**(2) Section 40 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 1, is further amended by adding thereto the following subsections:**

Information  
to be given

(2a) Where so prescribed, an employer who is required to give notice by subsection (2),

- (a) shall provide to the Minister, in the prescribed form, such information as may be prescribed; and
- (b) shall, on the first day of the statutory notice period, post in the employer's establishment, in the prescribed form, such information as may be prescribed.

(2b) The employer shall post the information required by clause (2a) (b) in one or more conspicuous places in the employer's establishment where it is most likely to come to the attention of the affected employees and the employer shall keep the information posted throughout the statutory notice period. <sup>Posting</sup>

(2c) The information required under subsection (2a) may include, <sup>Idem</sup>

- (a) the economic circumstances surrounding the intended terminations;
- (b) any consultations which have been or are proposed to take place with local communities or with the affected employees or their agent in connection with the terminations;
- (c) proposed adjustment measures and the number of employees expected to benefit from each; and
- (d) a statistical profile of the affected employees.

(2d) Notwithstanding subsection (2), the notice required under subsection (2) shall be deemed not to have been given until the date the completed form required under clause (2a) (a) is received by the Minister. <sup>When notice is effective</sup>

(2e) The Minister shall cause every form received in his or her office under clause (2a) (a) to be endorsed with a memorandum of the date of its receipt. <sup>Memorandum of date form received</sup>

(2f) Where the completed form required under clause (2a) (a) has been received, the Minister shall cause a notice to that effect to be sent to the employer within two business days of such receipt. <sup>Notice to employer</sup>

(2g) A copy of the memorandum referred to in subsection (2e) purporting to be certified by the Minister is, without proof of the signature of the Minister, evidence of the date the form was received. <sup>Statement by Minister as to time</sup>

**(3) The said section 40 is further amended by adding thereto the following subsections:**

(10) If an employee is temporarily laid off, as defined in the regulations, and the lay-off commences on or after the 15th day of June, 1987 and equals or exceeds thirty-five weeks in any period of fifty-two consecutive weeks, the employee shall be deemed no longer to be temporarily laid off and, if <sup>Entitlement to termination pay</sup>



the employee has not been given notice of termination in accordance with this section, the employee is entitled to termination pay.

Application  
by trade  
union

(11) Where an employee may be entitled to termination pay under subsection (10) is represented by a trade union, the trade union may apply to the Director in writing to extend the periods specified in subsection (10) and if the application is approved by the Director, subsection (10) shall be read as if such longer periods were specified.

Election by  
employee

(12) An employee who is entitled to termination pay under subsection (10) and who has a right to be recalled for employment under the terms and conditions of employment may elect to be paid the termination pay forthwith or may elect to retain the right to be recalled.

Idem

(13) Where an employee elects under subsection (12) to be paid the termination pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Where no  
election  
made

(14) Where an employee entitled to make an election under subsection (12) elects to maintain the right to be recalled or fails to make an election, the employer shall pay the termination pay to the Director in trust to be paid by the Director,

- (a) to the employer, where the employee accepts employment made available under the right of recall and in such case the employee shall be deemed to have abandoned the right to termination pay; or
- (b) to the employee in any case other than a case mentioned in clause (a) including the case where the employee renounces the right to be recalled and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

**5.—(1) Subsection 40a (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed and the following substituted therefor:**

Definitions

(1) In this section,

“lay-off” means a period of at least one week in which an employee receives less than one-quarter of the wages he or she would earn at his or her regular rate in a regular non-overtime work week unless the employee,

- (a) was not able to work or not available for work,



- (b) was subject to disciplinary suspension, or
- (c) was not provided with work by his or her employer by reason of any strike or lock-out occurring at his or her place of employment or elsewhere;

“termination” means,

- (a) a dismissal, including a constructive dismissal,
- (b) a lay-off that is effected because of a permanent discontinuance of all of the employer’s business at an establishment, or
- (c) a lay-off, including a lay-off effected because of a permanent discontinuance of part of the business of the employer at an establishment, commencing on or after the 15th day of June, 1987 that equals or exceeds thirty-five weeks in any period of fifty-two consecutive weeks,

and “terminated” has a corresponding meaning.

(1a) Where,

Severance  
pay

- (a) fifty or more employees have their employment terminated by an employer in a period of six months or less and the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment; or
- (b) one or more employees have their employment terminated by an employer with a payroll of \$2.5 million or more,

the employer shall pay severance pay to each employee whose employment has been terminated and who has been employed by the employer for five or more years.

(1b) Where,

Where  
location  
deemed an  
establishment

- (a) there is a permanent discontinuance of all or part of the business of an employer at a location which is part of an establishment consisting of two or more locations; and
- (b) fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance,

the location shall be deemed to be an establishment for the purpose of determining the rights of the employees employed at that location under this section.

Amount of  
severance  
pay

(1c) The severance pay to which an employee is entitled under this section shall be in an amount equal to the employee's regular wages for a regular non-overtime work week multiplied by the sum of,

- (a) the number of the employee's completed years of employment; and
- (b) the number of the employee's completed months of employment divided by 12,

but shall not exceed twenty-six weeks regular wages for a regular non-overtime work week.

(2) Subsection 40a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by,

- (a) striking out "Subsection (1) applies" in the first line and inserting in lieu thereof "Subsections (1a), (1b) and (1c) apply"; and
- (b) striking out clause (c) and substituting the following therefor:
- (c) an employee who is absent because of illness or injury, if the employee's contract of employment has not become impossible of performance or been frustrated by that illness or injury.

(3) Subsection 40a (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by the Statutes of Ontario, 1984, chapter 31, section 1, is further amended by,

- (a) striking out "Subsection (1) does" in the first line and inserting in lieu thereof "Subsections (1a), (1b) and (1c) do"; and
- (b) adding thereto the following clause:
- (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

**(4) Subsection 40a (9) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 31, section 1, is repealed and the following substituted therefor:**

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of election to maintain right to recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and in such case the employee shall be deemed to have abandoned the right to severance pay; or
- (b) to the employee in any case other than a case mentioned in clause (a), including the case where the employee renounces the right to be recalled, and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

**(5) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by 1984, chapter 31, section 1, is further amended by adding thereto the following subsections:**

(10) Where an employee who receives notice of termination on or after the 15th day of June, 1987 resigns from employment during the statutory notice period and provides the employer with at least two weeks written notice of resignation, the employee shall,

Where employee resigns

- (a) where the employee has been given notice of termination because of the permanent discontinuance of all of the employer's business at an establishment, be deemed to have had his or her employment terminated by the employer on the date the notice of termination was to have taken effect; and
- (b) in any other case, be deemed to have been laid off by the employer commencing on the date the notice of termination was to have taken effect.

(11) The amount of severance pay for an employee who is entitled to severance pay under subsection (10) shall be calculated on the employee's length of employment up to the date on which his or her notice of resignation takes effect.

Calculation of severance pay

(12) Notwithstanding subsections (1a) and (9) and section 7, where the Minister so recommends, the Director may, on

Instalment payments

an application by the employer, approve the employer's plan to pay severance pay by instalment and, where such approval has been given, the employer shall be deemed to have complied with subsections (1a) and (9) and section 7.

Where employer fails to comply with plan

(13) Where an employer fails to comply with the approved plan and the Director does not approve another instalment plan within thirty days of such failure, all unpaid severance pay shall be deemed to have become due and payable on the date the Director approved the original instalment plan.

Maximum period for payment of instalments

(14) No instalment plan shall extend payment of severance pay for a period longer than three years from the date on which such severance pay became due and payable.

Where agreements made by trade union

(15) Notwithstanding section 3, where an employee who is entitled to severance pay under this section is represented by a trade union, the trade union may enter into an agreement with the employer which includes a settlement of all severance pay claims, in which case this section does not apply.

Director to be notified

(16) The parties to an agreement under subsection (15) shall forthwith notify the Director in writing.

Proceedings terminated

(17) Where there is an agreement under subsection (15), any proceeding under section 50 or 51 to determine severance pay is terminated with regard to the employees represented by the trade union.

**6. Section 51a of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 31, section 2, is amended by adding thereto the following subsection:**

Interest on trust moneys

(3) Where under this Act the Director is required to hold moneys in trust, the Director shall pay interest to the person entitled to receive such moneys at the prescribed rate of interest.

**7. Subsection 65 (1) of the said Act is amended by adding thereto the following clauses:**

- (ta) prescribing rules for determining whether the termination of an employee who is not entitled to severance pay shall be taken into account in determining whether fifty or more employees have had their employment terminated in a period of six months or less, and whether the wages of an employee who is not entitled to severance pay shall be taken into account in determining the payroll of an employer;

- (tb) providing for the exclusion of weeks from the period of fifty-two consecutive weeks mentioned in the definition of “termination” in subsection 40a (1);
- (tc) prescribing forms and providing for their use;
- (td) defining any word or expression used in this Act that is not defined in this Act;
- (te) prescribing the manner in which information is to be given to the Minister under subsection 40 (2a);
- (tf) prescribing anything that by this Act is to be or may be prescribed.

**8.—(1)** This Act, except section 2, subsection 4 (2) and section 6, shall be deemed to have come into force on the 15th day of June, 1987. Commence-  
ment

**(2)** Section 2, subsection 4 (2) and section 6 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**9.** The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title









# Bill 86



## An Act to amend the Trespass to Property Act

Mr. Henderson

---

*1st Reading*      June 16th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTE

The purpose of the Bill is to entitle members of the public to remain on private commercial premises that are open to the public so long as the commercial purpose or the public, in general, is not interfered with.

**Bill 86**

**1987**

## **An Act to amend the Trespass to Property Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 2 of the *Trespass to Property Act*, being chapter 511 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) Any person is entitled to remain on premises that are open to the public for a commercial purpose so long as the person is not significantly interfering with that commercial purpose or the public's use of the premises.

Right to  
remain on  
commercial  
premises

**2.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**3.** The short title of this Act is the *Trespass to Property Amendment Act, 1987*.

Short title





3RD SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

# Bill 87

## An Act to amend the Landlord and Tenant Act

The Hon. I. Scott  
*Attorney General*



*1st Reading*      June 17th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

## EXPLANATORY NOTES

**GENERAL.** The purpose of the Bill is to extend to boarders and lodgers the benefits that other tenants of residential premises enjoy under the *Landlord and Tenant Act*. The principal effect is that boarders and lodgers will enjoy a measure of security of tenure and will not be liable to arbitrary eviction. The proclamation of certain amendments to the *Innkeepers Act* passed in 1979, but not yet in force, will ensure that their personal belongings may not be seized for arrears of rent.

**SECTION 1.—Subsection 1.** The re-enactment of subclause 1 (c) (i) (part of the definition of “residential premises”) makes it explicit that the term includes accommodation in a boarding house or lodging house.

**Subsection 2.** The list of types of accommodation not included in the definition of “residential premises” is expanded to exclude various types of accommodation where the legal nature of the occupant’s right to occupy the premises is analogous to the licence to occupy residential premises held by boarders and lodgers, but where the application of the *Landlord and Tenant Act* would be inappropriate.

**SECTION 2.—Subsection 1.** Clause 81 (e) of the Act is set out below showing underlined the words to be added by the amendment:

(e) “*tenancy agreement*” means an agreement between a tenant and a landlord for possession of residential premises, whether written, oral or implied and includes a licence to occupy residential premises.

**Subsection 2.** The addition of the new clause 81 (f) makes it explicit that for the purpose of Part IV (Residential Tenancies) of the *Landlord and Tenant Act*, “tenant” includes a boarder and a lodger.

**SECTION 3.** Subsection 84 (1) of the Act is re-enacted to make it clear that the amount of security deposit that may be required from a tenant by a landlord is limited to the rent for one rent period (but not in any event exceeding one month’s rent even if the rent period is longer than one month) to be applied in payment of the rent for the last rent period of the tenancy.

**SECTION 4.** Section 93 of the Act provides generally that a landlord must give a tenant at least twenty-four hours notice of the landlord’s intention to enter the rented premises. New subsection (2) dispenses with that requirement where the tenancy agreement, as is common in the case of boarders and lodgers, obligates the landlord to clean the premises at regular intervals.

**SECTION 5.** Subsection 96 (2) of the Act as it now reads provides that the tenant is responsible for the cleanliness of the premises and the repair of damage caused by wilful or negligent conduct; new subsections (2) and (2a) maintain this but also recognize that a tenancy agreement may obligate the landlord to clean the premises.

**SECTION 6.** Subsections 108 (1), (2), (3) and (4) of the Act (relating to early termination of a tenancy for non-payment of rent) as they now read are set out below:

(1) *Notwithstanding section 100, 101, 102, 103, 104 or 105, where a tenant fails to pay rent in accordance with a tenancy agreement, the landlord may serve on the tenant notice of termination of the tenancy agreement to be effective not earlier than the twentieth day after the notice is given.*

(2) *The notice of termination shall specify the right of the tenant to avoid the termination of the tenancy by payment of the rent demanded within fourteen days of his receiving the notice of termination.*

*(3) Where a tenant who receives notice of termination under subsection (1) pays to the landlord the rent that is due in accordance with the tenancy agreement and within fourteen days of the day he receives the notice, the notice of termination is void and of no effect.*

*(4) Where a tenant fails to pay the rent demanded within the fourteen days mentioned in subsection (2), the landlord is entitled to make application forthwith under section 113.*

The effect of the re-enactment is to shorten the period of notice by the landlord in the case of a weekly tenancy from twenty days to seven days and similarly to shorten the period to avoid termination by payment of the rent from fourteen days to seven days in the case of a weekly tenant.

**SECTION 7.** Clause 121 (4) (a) of the Act prohibits a landlord from withholding a reasonable supply of any vital service it is the landlord's obligation to supply and lists a number of examples of what is contemplated by the term "vital service"; the amendment adds "food" to that list.

**SECTION 8.** The amendments to the Act set out in the Bill are to come into force on proclamation; the intention is to proclaim in force at the same time those amendments to the *Innkeepers Act* mentioned in the general note to the Bill.



Bill 87

1987

## An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Subclause 1 (c) (i) of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (i) any premises used or intended for use for residential purposes, including accommodation in a boarding house or lodging house.

**(2) Clause 1 (c) of the said Act is amended by adding thereto the following subclauses:**

- (v) premises whose occupant or occupants are required to share a bathroom or kitchen facility with the landlord or the landlord's family,
- (vi) accommodation provided by an educational institution to its students or staff where,
  - (A) the accommodation is provided primarily to persons under the age of majority, or
  - (B) all major questions related to the accommodation are decided after consultation with a council or association representing the residents,

unless the accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households,

- (vii) accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or



cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home,

R.S.O. 1980,  
cc. 410, 389,  
79, 263, 202,  
203, 201,  
320, 275, 64,  
118, 280,  
273  
1984, c. 55

- (viii) accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Community Psychiatric Hospitals Act*, the *Mental Hospitals Act*, the *Homes for Special Care Act*, the *Homes for the Aged and Rest Homes Act*, the *Homes for Retarded Persons Act*, the *Nursing Homes Act*, the *Ministry of Correctional Services Act*, the *Charitable Institutions Act*, the *Child and Family Services Act*, 1984, the *Developmental Services Act*, the *Ministry of Health Act* or the *Ministry of Community and Social Services Act*,
- (ix) accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care, or
- (x) short term accommodation provided as emergency shelter.

**2.—(1) Clause 81 (e) of the said Act is amended by adding at the end thereof “and includes a licence to occupy residential premises”.**

**(2) Section 81 of the said Act is amended by adding thereto the following clause:**

- (f) “tenant” means a tenant as defined in clause 1 (e) and in addition includes a boarder and a lodger.

**3. Subsection 84 (1) of the said Act is repealed and the following substituted therefor:**

Security  
deposits

(1) A landlord shall not require or receive a security deposit from a tenant under a tenancy agreement other than the rent for one rent period, but not in any event exceeding one month, which payment shall be applied in payment of the rent for the last rent period immediately preceding the termination of the tenancy.

**4. Section 93 of the said Act is amended by adding thereto the following subsection:**

Entry by  
landlord to  
clean  
premises

(2) Where a tenancy agreement requires the landlord to clean the rented premises at regular intervals, the landlord

may enter the premises in order to perform that obligation in accordance with the tenancy agreement, without giving the notice referred to in subsection (1).

**5. Subsection 96 (2) of the said Act is repealed and the following substituted therefor:**

(2) The tenant is responsible for ordinary cleanliness of the rented premises, except to the extent that the tenancy agreement requires the landlord to clean them.

Responsi-  
bility for  
cleanliness

(2a) The tenant is responsible for the repair of damage caused by the wilful or negligent conduct of the tenant or of persons who are permitted on the premises by the tenant.

Tenant's  
responsibility  
for damage

**6. Subsections 108 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:**

(1) Notwithstanding section 100, 101, 102, 103, 104 or 105, where a tenant fails to pay rent in accordance with a tenancy agreement, the landlord may serve on the tenant notice of termination of the tenancy agreement effective not earlier than,

Early  
termination  
for non-  
payment of  
rent

- (a) in the case of a daily or weekly tenancy, the seventh day; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, the twentieth day,

after the notice is given.

(2) The notice of termination shall specify the right of the tenant to avoid the termination of the tenancy by payment of the rent demanded,

Notice to  
specify right  
of tenant

- (a) in the case of a daily or weekly tenancy, within seven days; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, within fourteen days,

of the tenant receiving the notice of termination.

(3) Where a tenant who received notice of termination under subsection (1) pays to the landlord the rent that is due in accordance with the tenancy agreement and within,

Notice void  
where rent  
paid

- (a) in the case of a daily or weekly tenancy, seven days; and

- (b) in the case of a tenancy other than a daily or weekly tenancy, fourteen days,

of the day the tenant receives the notice, the notice of termination is void and of no effect.

Application  
by landlord  
under s. 113

- (4) Where a tenant fails to pay the rent demanded,
  - (a) in the case of a daily or weekly tenancy, within the seven days mentioned in clause (2) (a); and
  - (b) in the case of a tenancy other than a daily or weekly tenancy, within the fourteen days mentioned in clause (2) (b),

the landlord is entitled to make application forthwith under section 113.

**7. Clause 121 (4) (a) of the said Act is amended by inserting after “water” in the second line “food”.**

Commence-  
ment and  
application

**8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor and applies to tenancies under tenancy agreements entered into or renewed before and subsisting on that day or entered into on or after that day.**

Short title

**9. The short title of this Act is the *Landlord and Tenant Amendment Act, 1987*.**

# Bill 88

## An Act to proclaim 1995 as the 150th Anniversary of the arrival of Irish Immigrants in Canada

Mr. Pollock



---

*1st Reading*      June 18th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

### EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

**Bill 88**

**1987**

**An Act to proclaim 1995 as the 150th Anniversary of  
the arrival of Irish Immigrants in Canada**

Whereas, Irish immigrants were among the earliest settlers in Canada; and whereas, in 1845, Irish immigrants fleeing the potato famine in Ireland began settling in Canada in large numbers; and whereas persons of Irish descent have made significant contributions to Canada and to the Province of Ontario; and whereas it is desirable to recognize their contributions and to mark the 150th anniversary of the arrival of these immigrants to Canada;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The year 1995 is proclaimed to be the Irish Immigrants' Sesquicentennial.
- 2.** This Act comes into force on the day it receives Royal Assent.
- 3.** The short title of this Act is the *Irish Immigrants' Sesquicentennial Act, 1987*.

Irish  
Immigrants'  
Sesqui-  
centennial

Commence-  
ment

Short title





# Bill 89

## An Act to amend the Election Act, 1984

Mr. Cousens



*1st Reading*      June 22nd, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

#### EXPLANATORY NOTE

The Bill exempts members of the Canadian Forces and their spouses and children who live with them from the requirement of having resided in Ontario for the six months immediately before polling day for the purpose of being entitled to vote in an election to the Legislative Assembly.

Bill 89

1987

An Act to amend the Election Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of the *Election Act, 1984*, being chapter 54, is amended by adding thereto the following subsection:

(1a) Clause (1) (c), as re-enacted by subsection (2), does not apply to a person who on the general polling day is a member of the Canadian Forces as defined by the *National Defence Act* (Canada) or a member's spouse or child living with him or her.

Exemption from cl. (1) (c) R.S.C. 1970, c. N-4

2. This Act comes into force on the day it receives Royal Assent.

Commencement

3. The short title of this Act is the *Election Amendment Act, 1987*.

Short title



# Bill 90

## An Act to amend the Ministry of Colleges and Universities Act

Mr. Warner



*1st Reading*      June 22nd, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*



### EXPLANATORY NOTE

The purpose of the Bill is to provide a vote on both the board of governors and the college council for students and staff members. The representatives are to be democratically elected by their peers with equal numbers of males and females from each group.

Bill 90-

1987

## An Act to amend the Ministry of Colleges and Universities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 5 of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:**

(3a) In addition to those members provided for by the regulations, each board of governors of a college shall be composed of members who shall be elected democratically from among each of the following groups of persons at the college to represent the interests of that group on the board of governors, such that there is an equal number of male and female members from each group: Idem

1. Academic staff members, being persons who are employed by the board of governors as teachers, counsellors or librarians.
2. Administrative staff members, being persons who are employed by the board of governors and who are not academic staff members or support staff members.
3. Students.
4. Support staff members, being persons who are employed by the board of governors as members of the office, clerical, technical, health care, maintenance, building, service, shipping, transportation, cafeteria or nursery staff.

(3b) Where a person elected to a board of governors ceases to be an academic staff member, administrative staff member, student or support staff member, as the case may be, the person ceases to be a member of the board. When person ceases to be member

Idem

(3c) Notwithstanding subsection (3b), a student appointed to a board of governors who graduates prior to the expiration of the student's term may remain a member of the board until the expiration of such term.

College  
council

(3d) There shall be a college council for each college of applied arts and technology that shall be composed of members who shall be elected democratically from among each of the following groups of persons at the college to represent the interests of that group on the college council, such that there is an equal number of male and female members from each group:

1. Academic staff members, being persons who are employed by the board of governors as teachers, counsellors or librarians.
2. Administrative staff members, being persons who are employed by the board of governors and who are not academic staff members or support staff members.
3. Students.

When person  
ceases to be  
member

(3e) Where a person elected to a college council ceases to be an academic staff member, administrative staff member or a student, as the case may be, the person ceases to be a member of the board.

Idem

(3f) Notwithstanding subsection (3e), a student appointed to a college council who graduates prior to the expiration of the student's term may remain a member of the council until the expiration of such term.

Commence-  
ment

**2. This Act comes into force on the day it receives Royal Assent.**

Short title

**3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1987*.**

# Bill 93

## **An Act to amend the Employment Standards Act**

Mr. Shymko



---

*1st Reading*      June 23rd, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

#### EXPLANATORY NOTE

The Bill adds Remembrance Day to the definition of “public holiday”. Under subsection 26 (2) of the Act, employees are entitled to a paid holiday for each public holiday.

Bill 93-

1987

**An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by inserting after "Thanksgiving Day" in the third line "Remembrance Day".

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title





# Bill 94

## An Act to amend the Municipal Corporations Quietening Orders Act

The Hon. B. Grandmaître  
*Minister of Municipal Affairs*



*1st Reading*      June 23rd, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTES

Section 1 of the Bill would expand the definition of municipality to include a metropolitan, regional or district municipality or the County of Oxford.

The effect of section 2 of the Bill is to allow the Ontario Municipal Board to fix fees for an application under the Act without the restriction that they do not exceed \$15.

Bill 94

1987

**An Act to amend the  
Municipal Corporations Quieting Orders Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clause 1 (c) of the *Municipal Corporations Quieting Orders Act*, being chapter 306 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(c) “municipality” means a county, city, town, village, township, metropolitan, regional or district municipality or the County of Oxford.

**2.** Section 8 of the said Act is amended by striking out “but shall not exceed \$15” in the second line.

**3.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**4.** The short title of this Act is the *Municipal Corporations Quieting Orders Amendment Act, 1987*. Short title



# Bill 95

## **An Act to repeal certain Private Acts related to Municipalities**

The Hon. B. Grandmaître  
*Minister of Municipal Affairs*



---

*1st Reading*      June 23rd, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

### EXPLANATORY NOTE

The purpose of the Bill is to repeal various municipal private acts that are obsolete or unnecessary.

Bill 95

1987

## An Act to repeal certain Private Acts related to Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The Acts listed in the Schedule hereto are hereby Repeal  
repealed.

**2.** A municipality incorporated by an Act listed in the Status not  
affected  
Schedule and that was in existence immediately prior to the coming into force of this Act shall be deemed to be continued with the same status as it had immediately prior to the coming into force of this Act.

**3.** Nothing in this Act affects the boundaries of any municipality as those boundaries existed immediately prior to the coming into force of this Act. Boundaries  
not affected

**4.** This Act comes into force on the day it receives Royal Commence-  
ment  
Assent.

**5.** The short title of this Act is the *Municipal Private Acts Repeal Act, 1987*. Short title

### SCHEDULE

#### ACTS REPEALED

Municipality	Year and Chapter
ALFRED, Township.....	1926, c. 74; 1959, c. 109
BLOOMFIELD, Village.....	1923, c. 58
CHATHAM AND NORTH GORE, Township .....	1907, c. 92
CHELMSFORD, Town.....	1940, c. 39; 1956, c. 101, c. 102
CHESLEY, Town .....	1911, c. 86; 1959, c. 113
COLEMAN, Township .....	1910, c. 112
DRYDEN, Town.....	1912, c. 93



Municipality	Year and Chapter
DUNNVILLE, Town.....	1900, c. 66; 1913, c. 95; 1914, c. 68; 1920, c. 118; 1927, c. 106
EAST WINDSOR, City .....	1930, c. 74; 1931, c. 92; 1932, c. 98
ERAMOSA, Township .....	1962-63, c. 160
ESSEX, County .....	1924, c. 94
EXETER, Town .....	1893, c. 62; 1978, c. 117
FORD CITY, Town .....	1924, c. 96
GALT, Town .....	1889, c. 60
GRANTHAM, Township .....	1926, c. 83; 1957, c. 137
HALLOWELL, Township .....	1923, c. 58
HASTINGS, County.....	1868, c. 46
HEARST, Town .....	1961-62, c. 153
HUMBERSTONE, Township....	1908, c. 85; 1912, c. 102
KINGSTON, Township .....	1949, c. 128; 1960, c. 148
LAMBTON, County.....	1875-76, c. 60; 1906, c. 131
LANARK, County .....	1903, c. 60; 1913, c. 101
LAXTON, DIGBY AND	
LONGFORD, Townships .....	1889, c. 64
MATCHEDASH, Township.....	1910, c. 151
McGILLIVRAY, Township .....	1870-71, c. 65
METHUEN, Township .....	1946, c. 101
MIDLAND, Town .....	1898, c. 47; 1899, c. 61; 1901, c. 60; 1903, c. 65, c. 66; 1905, c. 58; 1908, c. 94; 1909, c. 112; 1913, c. 105; 1914, c. 75; 1917, c. 76; 1921, c. 110; 1923, c. 73
MILTON, Town .....	1891, c. 74; 1900, c. 78; 1912, c. 108
NEW LISKEARD, Town.....	1911, c. 96; 1930, c. 87
NORTHUMBERLAND AND	
DURHAM, Counties.....	1875-76, c. 54; 1905, c. 62; 1906, c. 84; 1908, c. 100; 1962-63, c. 176
OIL SPRINGS, Village .....	1895, c. 71
ORANGEVILLE, Town .....	1886, c. 61; 1894, c. 74; 1914, c. 80; 1919, c. 99; 1920, c. 130
ORILLIA, City.....	1871-72, c. 66
PEEL, County .....	1941, c. 69
PEMBROKE, Town.....	1913, c. 112; 1914, c. 86; 1921, c. 116; 1924, c. 115; 1957, c. 151
PENETANGUISHENE, Town..	1897, c. 73; 1910, c. 122; 1917, c. 82; 1923, c. 78; 1931, c. 117
PETROLIA, Town.....	1899, c. 72; 1901, c. 64; 1903, c. 75; 1905, c. 68; 1906, c. 89; 1917, c. 84; 1923, c. 79; 1943, c. 45
PORT COLBORNE, City .....	1907, c. 84; 1913, c. 116; 1921, c. 120; 1923, c. 82; 1953, c. 127
PORT McNICOLL, Village .....	1919, c. 108
PUSLINCH, Township.....	1974, c. 167
RALEIGH AND HARWICH,	
Townships.....	1960, c. 164
RICHMOND HILL, Town .....	1931, c. 114; 1960-61, c. 131
RIVERSIDE, Town .....	1928, c. 77; 1931, c. 120; 1932, c. 85; 1948, c. 121; 1955, c. 110
SANDWICH, Town .....	1913, c. 120; 1916, c. 90; 1918, c. 78; 1924, c. 121; 1927, c. 124; 1928, c. 78, c. 79; 1929, c. 119; 1930, c. 95; 1931, c. 122; 1933, c. 72, c. 97
SANDWICH EAST, Town .....	1928, c. 80

Municipality	Year and Chapter
SANDWICH SOUTH, Township .....	1920, c. 139
SANDWICH WEST, Township .....	1920, c. 140
SARNIA, City .....	1915, c. 70; 1916, c. 91; 1926, c. 92; 1927, c. 126; 1929, c. 120; 1930, c. 97; 1932, c. 88; 1937, c. 101; 1947, c. 139; 1972, c. 191
SAULT STE. MARIE, City .....	1877, c. 32; 1890, c. 135; 1894, c. 80; 1895, c. 119; 1903, c. 81; 1907, c. 89; 1908, c. 108; 1909, c. 121; 1912, c. 122; 1914, c. 94, c. 95; 1915, c. 71; 1916, c. 92; 1918, c. 80; 1919, c. 105; 1920, c. 137; 1921, c. 123; 1922, c. 126; 1923, c. 87; 1924, c. 122; 1925, c. 104; 1926, c. 93; 1930, c. 98; 1958, c. 152; 1959, c. 133
ST. CATHARINES, City .....	1880, c. 45; 1895, c. 78, c. 79; 1900, c. 93; 1901, c. 98; 1905, c. 71, c. 72, c. 73, c. 74; 1906, c. 94; 1907, c. 86; 1909, c. 119; 1910, c. 126, c. 127, c. 128; 1911, c. 110, c. 111; 1915, c. 69; 1916, c. 89; 1917, c. 89; 1919, c. 104; 1920, c. 136; 1922, c. 128; 1923, c. 85; 1932, c. 87; 1924, c. 118
TECK, Township .....	1927, c. 128; 1958, c. 158
THOROLD, Township .....	1927, c. 130; 1946, c. 140
TILBURY EAST, Township .....	1893, c. 83; 1905, c. 81; 1912, c. 125
TILBURY, Town .....	1890, c. 103; 1931, c. 129
WALKERVILLE, Town .....	1916, c. 97; 1919, c. 112, c. 113; 1920, c. 146; 1925, c. 114; 1926, c. 103; 1928, c. 90; 1930, c. 107; 1932, c. 98; 1933, c. 107; 1934, c. 100
WASAGA BEACH, Village .....	1971, c. 132
WATERLOO, City .....	1914, c. 104; 1917, c. 96; 1939, c. 77; 1958, c. 163; 1962-63, c. 196; 1972, c. 203
WELLAND, County .....	1968, c. 182; 1968-69, c. 170
WELLAND, City .....	1918, c. 56; 1953, c. 134
WEST LORNE, Police Village ..	1906, c. 104
WESTPORT, Village .....	1906, c. 68
WINCHESTER, Village .....	1899, c. 89
WINDSOR, City .....	1897, c. 83; 1900, c. 108; 1901, c. 99; 1904, c. 74; 1905, c. 111; 1907, c. 97; 1908, c. 120; 1910, c. 136; 1914, c. 110, c. 112; 1920, c. 147, c. 148; 1921, c. 127; 1923, c. 97; 1925, c. 117; 1928, c. 93; 1929, c. 126; 1932, c. 95; 1935, c. 98; 1951, c. 120; 1962-63, c. 197
WINGHAM, Town .....	1888, c. 64; 1896, c. 100; 1915, c. 79; 1928, c. 94







# Bill 96

## An Act to revise the Bees Act

The Hon. J. Riddell  
*Minister of Agriculture and Food*



*1st Reading*      June 24th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The proposed revision of the Act contains four major changes:

1. The position of Director is created. The Director, rather than the Provincial Apiarist, would hear appeals from an order of an inspector (subsections 4 (1) and 7 (1)).
2. Section 13 has been changed so that it would now be necessary to obtain a permit in order to receive or transport packaged bees obtained from outside Ontario.
3. The fine for a violation of the Act or the regulations has been increased to not more than \$1,000 for a first offence and not more than \$5,000 for a subsequent offence. The Act as it now reads provides for fines of between \$10 and \$50 for a first offence and between \$25 and \$100 for a subsequent offence (section 24).
4. A definition of pest is included in the Act and pests would be treated in the same manner as diseases.

Other changes are consequential to these four amendments or modernize the language of the Act.



Bill 96

1987

## An Act to revise the Bees Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“apiary” means a place where bees and beekeeping equipment of a beekeeper are located;

“beekeeper” means a person who owns or is in possession of bees or beekeeping equipment, but does not include a person who is in possession of new beekeeping equipment for the purpose of transportation, distribution or sale or who is a manufacturer of beekeeping equipment;

“beekeeping equipment” means hives, parts of hives and utensils used in the keeping of bees;

“bees” means the insects known as *Apis mellifera*;

“bees-wax refuse” means damaged honeycombs, honeycomb cappings or the material remaining after the first rendering of used honeycombs or honeycomb cappings;

“Director” means the Director appointed under this Act;

“disease” means,

- (a) American foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *Bacillus larvae*,
- (b) European foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *Bacillus pluton* or *Bacillus alvei*, and
- (c) any disease designated by the regulations as a disease within the meaning of this Act;

“infected” means infected with the causal organisms of a disease;

“inspector” means an inspector appointed under this Act;

“Minister” means the Minister of Agriculture and Food;

“package bees” means bees placed in a screened cage or package without honeycombs for the purpose of being shipped;

“pest” means both of the subspecies of bees known as *Apis mellifera scutella* and *Apis mellifera adonsonii* and such other insect or parasite as is designated by the regulations to be a pest within the meaning of this Act;

“regulations” means the regulations made under this Act.

Bees in hive  
private  
property

**2.** Bees reared and kept in hives are private property.

Right of  
owner to  
pursue and  
recover  
swarm

**3.—**(1) Subject to subsections (2), (3) and (4), where a swarm of bees leaves a hive, the owner of the swarm may enter upon the premises of any person and recover the swarm.

Where owner  
declines to  
pursue swarm

(2) Where the owner of a swarm of bees that leaves its hive declines to pursue it and another person takes up the pursuit, such other person is subrogated to all the rights of the owner in respect of the swarm.

Owner of  
premises to  
be notified

(3) Where the right to recover a swarm of bees is claimed under subsection (1) or (2), the person claiming the swarm shall notify the owner of the premises on which the swarm has settled before entering the premises and shall compensate the owner for any damage to the premises caused by the entry.

When right  
of property  
in swarm lost

(4) Where a swarm of bees leaves a hive and settles in an occupied hive owned by a person other than the owner of the swarm, the owner of the swarm loses all right of property in the swarm.

Appointment  
of Director,  
Provincial  
Apiarist,  
Assistant  
Provincial  
Apiarist and  
inspectors

**4.—**(1) The Minister may appoint a Director, a Provincial Apiarist, an Assistant Provincial Apiarist and such inspectors as are considered necessary for the purposes of this Act.

Assistant  
Provincial  
Apiarist

(2) The Assistant Provincial Apiarist shall act in lieu of the Provincial Apiarist in the absence of the Provincial Apiarist or when so instructed to act by the Provincial Apiarist and when

so doing has all the powers and may perform any of the duties of the Provincial Apiarist.

(3) The Provincial Apiarist has all the powers and may perform any of the duties of an inspector. Provincial Apiarist

(4) It is the duty of an inspector when he or she considers it necessary or when so instructed by the Provincial Apiarist, Duties of inspector

(a) to inspect any bees or beekeeping equipment to determine whether any pest is present or disease exists in the bees, whether the beekeeping equipment is infected, or whether the provisions of this Act and the regulations have been complied with; and

(b) to inspect any books or records required by this Act or the regulations to be kept by beekeepers and persons who sell bees.

(5) With the approval of the Provincial Apiarist, an inspector may employ such persons as the inspector requires to assist him or her in an inspection and such persons shall be paid such amounts as the Minister determines. Employment of persons by inspector

(6) In the performance of his or her duties under this Act and the regulations, an inspector may at any time between sunrise and sunset enter any premises, other than a dwelling, where bees, beekeeping equipment or books or records pertaining to the keeping of bees are kept or stored. Right of entry

(7) An inspector may take such samples as the inspector considers necessary in order to determine whether any pest is present or disease exists in the bees or whether the beekeeping equipment is infected. Samples

(8) No person shall obstruct the Provincial Apiarist, Assistant Provincial Apiarist or an inspector in the performance of their duties or furnish them with false information. Obstruction of inspector

(9) Every beekeeper shall, when requested to do so by an inspector, assist the inspector in an inspection on the premises of the beekeeper. Assistance of beekeeper in inspection

**5.—(1)** Where an inspector has reasonable grounds for believing that any pest is present or disease exists in any bees or that any beekeeping equipment is infected, the inspector may, by order in writing, Treatment or destruction of infected bees or beekeeping equipment

- (a) require the beekeeper to treat or disinfect such bees or beekeeping equipment in such manner and within such period as the order requires;
- (b) require the beekeeper to destroy by fire, or other means approved by the Provincial Apiarist, within such period as the order requires, such bees or beekeeping equipment as in the opinion of the inspector cannot be suitably treated or disinfected; or
- (c) require the beekeeper to retain the bees and beekeeping equipment at such location and for such period of time as the order requires.

Power of  
inspector to  
destroy or  
treat diseased  
bees, etc.

(2) If the beekeeper fails to carry out the instructions in an order given under subsection (1) within such period as the order requires or if so requested by the beekeeper, the inspector may carry out the instructions in the order and, when required to do so by the Provincial Apiarist, the beekeeper shall pay any expenses incurred in carrying out the instructions.

Order

(3) Every order under this section shall be delivered to the beekeeper by an inspector or mailed by prepaid mail to his or her last or usual place of abode and shall contain notice to the beekeeper that he or she may appeal from the order to the Director within five days after receipt of the order and, where the order is mailed, the beekeeper shall be deemed to have received the order on the fifth day after the day of mailing unless the beekeeper did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control receive the order until a later date.

Bees in hive  
without  
movable  
frames

**6.—(1)** No beekeeper shall keep bees in a hive without movable frames.

Transfer of  
bees to hives  
with movable  
frames

(2) Where an inspector finds that bees are kept in a hive without movable frames, the inspector may order that they be transferred to hives with movable frames within such period as is specified in the order.

Failure of  
beekeeper to  
transfer

(3) If a beekeeper fails to transfer the bees in accordance with an order under subsection (2), the inspector may destroy the hives and the bees dwelling therein.

Appeal

**7.—(1)** Where a beekeeper considers himself or herself aggrieved by an order of an inspector, the beekeeper may within five days of the receipt of the order appeal against the order by notice to the Director.

(2) An appeal under this section may be made in writing or orally or by telephone to the Director, but the Director may require the grounds for appeal to be specified in writing before the hearing.

Idem

(3) Upon being notified of an appeal, the Director shall, after a hearing, confirm, revoke or vary the order appealed from and shall notify the appellant of the Director's decision by prepaid mail and the appellant shall carry out such order as is given by the Director in the decision.

Hearing

(4) The beekeeper and the inspector who made the order appealed from are parties to an appeal under this section.

Parties

**8.**—(1) When requested by an inspector, every beekeeper shall inform the inspector of the location of all beekeeping equipment in the possession of the beekeeper.

Information as to the location of beekeeping equipment to be given inspector

(2) Every beekeeper shall identify the apiary or apiaries of which he or she is the owner by posting, in the places and in the manner prescribed by the regulations made under this Act, his or her name and address.

Posting of name and address of beekeeper

**9.** No beekeeper shall conceal the presence of any pests or the existence of any disease.

Concealing existence of disease

**10.** Every beekeeper who finds that any pest is present or disease exists in his or her bees or that his or her beekeeping equipment is infected, shall immediately report the presence of the pest or the existence of the disease to the Provincial Apiarist.

Duty of beekeeper to report disease

**11.**—(1) The Minister may declare a quarantine of bees in any area in Ontario that the Minister designates and may fix the duration of the quarantine and the conditions with respect thereto.

Quarantine of bees

(2) No person shall move any bees or beekeeping equipment to, from, within or through an area of quarantine without a permit from the Provincial Apiarist.

Moving bees to, from, etc., quarantine area

**12.**—(1) No beekeeper shall sell or remove or cause to be removed from his or her premises any bees or beekeeping equipment without a permit from an inspector stating that such bees or beekeeping equipment were inspected and appeared to be free from disease, pests and infection.

Permit required for sale or removal of bees



## Exception

(2) Subsection (1) does not apply where the bees and beekeeping equipment are moved by the beekeeper from his or her extracting plant to his or her apiaries or from such apiaries to such extracting plant or between such apiaries.

## Receiving or transporting pest prohibited

**13.—**(1) No person shall receive or transport in any manner within Ontario any pest.

## Permit required to receive or transport bees obtained outside Ontario

(2) No person shall receive or transport in any manner within Ontario any bees or used beekeeping equipment obtained from outside Ontario without a permit from the Provincial Apiarist stating that the Provincial Apiarist is satisfied that no pest is present, that such bees are free from disease and that such used beekeeping equipment is not infected.

## Exposing infected comb or honey

**14.** No person shall expose on his or her premises or elsewhere any honeycomb or honey in such manner that it is accessible to bees where that person knows or ought to know that the honeycomb or honey is likely to be infected.

## Disposal of dead colonies of bees, etc.

**15.—**(1) Where dead colonies of bees or honeycombs are exposed in such manner that they are accessible to bees, or where colonies of bees are abandoned or not regularly and properly attended, an inspector may require the beekeeper to dispose of such colonies and honeycombs in such manner and within such period as the inspector specifies.

## Disposal by inspector

(2) If the beekeeper fails to dispose of such colonies and honeycombs as required by the inspector, the inspector may dispose of them and, where required to do so by the Provincial Apiarist, the beekeeper shall pay any expenses incurred in disposing of them.

## Honey prohibited as food for bees

**16.** No person who sells package bees or queen bees shall use as food for such bees any honey or candy containing honey.

## Bees obtained outside Ontario

**17.** Every person who receives bees that have been obtained from outside Ontario shall, within ten days of the receipt of the bees, notify the Provincial Apiarist that the bees have been received.

## Spraying of fruit trees

**18.** No person shall spray or dust fruit trees during the period within which the trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from the trees.

## Location of hives

**19.—**(1) No person in a place other than an urban municipality or suburban district designated under this section shall

place or leave hives containing bees within ten metres of a highway, dwelling or cultivated field.

(2) Subsection (1) does not apply to hives placed or left on lands where the lands are separated from the highway, dwelling or cultivated field by a hedge or a solid fence at least two metres in height and extending at least 4.5 metres from the hives in both directions. Exception

(3) No person in an urban municipality or suburban district designated under this section shall place or leave hives containing bees within thirty metres of a property line separating the lands on which the hives are placed or left from lands occupied by a dwelling or used for purposes of a community centre, public park or other place of public assembly or recreation. Location of hives in urban municipalities, etc.

(4) The council of any township may pass by-laws designating as a suburban district any part of the township that adjoins an urban municipality or that adjoins another designated suburban district. By-laws designating suburban districts

(5) A by-law passed under subsection (4) shall not take effect until it is approved by the Minister. Approval of Minister

**20.** No person shall sell, transport or ship within Ontario any used honey container that has not been properly cleansed. Transporting of used containers

**21.—**(1) No person shall be a beekeeper in Ontario without a certificate of registration issued by the Provincial Apiarist. Certificate of registration

(2) Every application for the issue or renewal of a certificate of registration shall be made to the Provincial Apiarist, be accompanied by the prescribed fee and include such information as the Provincial Apiarist requires. Application

(3) Every certificate of registration expires on the 31st day of December next following the date on which it was issued. Expiry

(4) An application for the renewal of a certificate of registration shall be filed with the Provincial Apiarist at least sixty days before the certificate expires. Time for application for renewal

**22.** No person shall buy, sell or transport bees-wax refuse or used honeycombs between the 1st day of April and the 1st day of December in any year without a permit from the Provincial Apiarist. Bees-wax refuse and used honeycombs



Records and  
returns

**23.** Every beekeeper and every person who sells bees shall,

- (a) keep such books and records as the regulations prescribe; and
- (b) make such returns in such manner and at such times as the regulations prescribe.

Offence

**24.** Every person who contravenes any provision of this Act or the regulations or any order of the Director, Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 or to imprisonment for a term of not more than thirty days for any subsequent offence.

Regulations

**25.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees that shall be paid for a certificate of registration;
- (b) providing for the keeping of a register of beekeepers;
- (c) prescribing the books and records that shall be kept by beekeepers and by persons who sell bees or package bees;
- (d) prescribing the returns that shall be made to the Provincial Apiarist by beekeepers and by persons who sell bees or package bees;
- (e) requiring and prescribing the reports that shall be made to the Provincial Apiarist by inspectors;
- (f) designating any area in Ontario as a queen bee breeding area and regulating the keeping of bees in such area;
- (g) designating any disease of bees to be a disease within the meaning of this Act;
- (h) designating any insect or parasite to be a pest within the meaning of this Act;
- (i) prescribing forms and providing for their use.

**26.** The *Bees Act*, being chapter 42 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

**27.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**28.** The short title of this Act is the *Bees Act, 1987*. Short title



# Bill 96

*(Chapter 31  
Statutes of Ontario, 1987)*

## An Act to revise the Bees Act

The Hon. J. Riddell  
*Minister of Agriculture and Food*

<i>1st Reading</i>	June 24th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



Bill 96

1987

## An Act to revise the Bees Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“apiary” means a place where bees and beekeeping equipment of a beekeeper are located;

“beekeeper” means a person who owns or is in possession of bees or beekeeping equipment, but does not include a person who is in possession of new beekeeping equipment for the purpose of transportation, distribution or sale or who is a manufacturer of beekeeping equipment;

“beekeeping equipment” means hives, parts of hives and utensils used in the keeping of bees;

“bees” means the insects known as *Apis mellifera*;

“bees-wax refuse” means damaged honeycombs, honeycomb cappings or the material remaining after the first rendering of used honeycombs or honeycomb cappings;

“Director” means the Director appointed under this Act;

“disease” means,

- (a) American foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *Bacillus larvae*,
- (b) European foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *Bacillus pluton* or *Bacillus alvei*, and
- (c) any disease designated by the regulations as a disease within the meaning of this Act;

“infected” means infected with the causal organisms of a disease;

“inspector” means an inspector appointed under this Act;

“Minister” means the Minister of Agriculture and Food;

“package bees” means bees placed in a screened cage or package without honeycombs for the purpose of being shipped;

“pest” means both of the subspecies of bees known as *Apis mellifera scutella* and *Apis mellifera adonsonii* and such other insect or parasite as is designated by the regulations to be a pest within the meaning of this Act;

“regulations” means the regulations made under this Act.

Bees in hive  
private  
property

**2.** Bees reared and kept in hives are private property.

Right of  
owner to  
pursue and  
recover  
swarm

**3.—**(1) Subject to subsections (2), (3) and (4), where a swarm of bees leaves a hive, the owner of the swarm may enter upon the premises of any person and recover the swarm.

Where owner  
declines to  
pursue swarm

(2) Where the owner of a swarm of bees that leaves its hive declines to pursue it and another person takes up the pursuit, such other person is subrogated to all the rights of the owner in respect of the swarm.

Owner of  
premises to  
be notified

(3) Where the right to recover a swarm of bees is claimed under subsection (1) or (2), the person claiming the swarm shall notify the owner of the premises on which the swarm has settled before entering the premises and shall compensate the owner for any damage to the premises caused by the entry.

When right  
of property  
in swarm lost

(4) Where a swarm of bees leaves a hive and settles in an occupied hive owned by a person other than the owner of the swarm, the owner of the swarm loses all right of property in the swarm.

Appointment  
of Director,  
Provincial  
Apiarist,  
Assistant  
Provincial  
Apiarist and  
inspectors

**4.—**(1) The Minister may appoint a Director, a Provincial Apiarist, an Assistant Provincial Apiarist and such inspectors as are considered necessary for the purposes of this Act.

Assistant  
Provincial  
Apiarist

(2) The Assistant Provincial Apiarist shall act in lieu of the Provincial Apiarist in the absence of the Provincial Apiarist or when so instructed to act by the Provincial Apiarist and when



so doing has all the powers and may perform any of the duties of the Provincial Apiarist.

(3) The Provincial Apiarist has all the powers and may perform any of the duties of an inspector. Provincial Apiarist

(4) It is the duty of an inspector when he or she considers it necessary or when so instructed by the Provincial Apiarist, Duties of inspector

(a) to inspect any bees or beekeeping equipment to determine whether any pest is present or disease exists in the bees, whether the beekeeping equipment is infected, or whether the provisions of this Act and the regulations have been complied with; and

(b) to inspect any books or records required by this Act or the regulations to be kept by beekeepers and persons who sell bees.

(5) With the approval of the Provincial Apiarist, an inspector may employ such persons as the inspector requires to assist him or her in an inspection and such persons shall be paid such amounts as the Minister determines. Employment of persons by inspector

(6) In the performance of his or her duties under this Act and the regulations, an inspector may at any time between sunrise and sunset enter any premises, other than a dwelling, where bees, beekeeping equipment or books or records pertaining to the keeping of bees are kept or stored. Right of entry

(7) An inspector may take such samples as the inspector considers necessary in order to determine whether any pest is present or disease exists in the bees or whether the beekeeping equipment is infected. Samples

(8) No person shall obstruct the Provincial Apiarist, Assistant Provincial Apiarist or an inspector in the performance of their duties or furnish them with false information. Obstruction of inspector

(9) Every beekeeper shall, when requested to do so by an inspector, assist the inspector in an inspection on the premises of the beekeeper. Assistance of beekeeper in inspection

5.—(1) Where an inspector has reasonable grounds for believing that any pest is present or disease exists in any bees or that any beekeeping equipment is infected, the inspector may, by order in writing, Treatment or destruction of infected bees or beekeeping equipment

- (a) require the beekeeper to treat or disinfect such bees or beekeeping equipment in such manner and within such period as the order requires;
- (b) require the beekeeper to destroy by fire, or other means approved by the Provincial Apiarist, within such period as the order requires, such bees or beekeeping equipment as in the opinion of the inspector cannot be suitably treated or disinfected; or
- (c) require the beekeeper to retain the bees and beekeeping equipment at such location and for such period of time as the order requires.

Power of  
inspector to  
destroy or  
treat diseased  
bees, etc.

(2) If the beekeeper fails to carry out the instructions in an order given under subsection (1) within such period as the order requires or if so requested by the beekeeper, the inspector may carry out the instructions in the order and, when required to do so by the Provincial Apiarist, the beekeeper shall pay any expenses incurred in carrying out the instructions.

Order

(3) Every order under this section shall be delivered to the beekeeper by an inspector or mailed by prepaid mail to his or her last or usual place of abode and shall contain notice to the beekeeper that he or she may appeal from the order to the Director within five days after receipt of the order and, where the order is mailed, the beekeeper shall be deemed to have received the order on the fifth day after the day of mailing unless the beekeeper did not, acting in good faith, through absence, accident, illness or other cause beyond his or her control receive the order until a later date.

Bees in hive  
without  
movable  
frames

**6.—**(1) No beekeeper shall keep bees in a hive without movable frames.

Transfer of  
bees to hives  
with movable  
frames

(2) Where an inspector finds that bees are kept in a hive without movable frames, the inspector may order that they be transferred to hives with movable frames within such period as is specified in the order.

Failure of  
beekeeper to  
transfer

(3) If a beekeeper fails to transfer the bees in accordance with an order under subsection (2), the inspector may destroy the hives and the bees dwelling therein.

Appeal

**7.—**(1) Where a beekeeper considers himself or herself aggrieved by an order of an inspector, the beekeeper may within five days of the receipt of the order appeal against the order by notice to the Director.

(2) An appeal under this section may be made in writing or orally or by telephone to the Director, but the Director may require the grounds for appeal to be specified in writing before the hearing.

Idem

(3) Upon being notified of an appeal, the Director shall, after a hearing, confirm, revoke or vary the order appealed from and shall notify the appellant of the Director's decision by prepaid mail and the appellant shall carry out such order as is given by the Director in the decision.

Hearing

(4) The beekeeper and the inspector who made the order appealed from are parties to an appeal under this section.

Parties

**8.**—(1) When requested by an inspector, every beekeeper shall inform the inspector of the location of all beekeeping equipment in the possession of the beekeeper.

Information as to the location of beekeeping equipment to be given inspector

(2) Every beekeeper shall identify the apiary or apiaries of which he or she is the owner by posting, in the places and in the manner prescribed by the regulations made under this Act, his or her name and address.

Posting of name and address of beekeeper

**9.** No beekeeper shall conceal the presence of any pests or the existence of any disease.

Concealing existence of disease

**10.** Every beekeeper who finds that any pest is present or disease exists in his or her bees or that his or her beekeeping equipment is infected, shall immediately report the presence of the pest or the existence of the disease to the Provincial Apiarist.

Duty of beekeeper to report disease

**11.**—(1) The Minister may declare a quarantine of bees in any area in Ontario that the Minister designates and may fix the duration of the quarantine and the conditions with respect thereto.

Quarantine of bees

(2) No person shall move any bees or beekeeping equipment to, from, within or through an area of quarantine without a permit from the Provincial Apiarist.

Moving bees to, from, etc., quarantine area

**12.**—(1) No beekeeper shall sell or remove or cause to be removed from his or her premises any bees or beekeeping equipment without a permit from an inspector stating that such bees or beekeeping equipment were inspected and appeared to be free from disease, pests and infection.

Permit required for sale or removal of bees

## Exception

(2) Subsection (1) does not apply where the bees and beekeeping equipment are moved by the beekeeper from his or her extracting plant to his or her apiaries or from such apiaries to such extracting plant or between such apiaries.

## Receiving or transporting pest prohibited

**13.—**(1) No person shall receive or transport in any manner within Ontario any pest.

## Permit required to receive or transport bees obtained outside Ontario

(2) No person shall receive or transport in any manner within Ontario any bees or used beekeeping equipment obtained from outside Ontario without a permit from the Provincial Apiarist stating that the Provincial Apiarist is satisfied that no pest is present, that such bees are free from disease and that such used beekeeping equipment is not infected.

## Exposing infected comb or honey

**14.** No person shall expose on his or her premises or elsewhere any honeycomb or honey in such manner that it is accessible to bees where that person knows or ought to know that the honeycomb or honey is likely to be infected.

## Disposal of dead colonies of bees, etc.

**15.—**(1) Where dead colonies of bees or honeycombs are exposed in such manner that they are accessible to bees, or where colonies of bees are abandoned or not regularly and properly attended, an inspector may require the beekeeper to dispose of such colonies and honeycombs in such manner and within such period as the inspector specifies.

## Disposal by inspector

(2) If the beekeeper fails to dispose of such colonies and honeycombs as required by the inspector, the inspector may dispose of them and, where required to do so by the Provincial Apiarist, the beekeeper shall pay any expenses incurred in disposing of them.

## Honey prohibited as food for bees

**16.** No person who sells package bees or queen bees shall use as food for such bees any honey or candy containing honey.

## Bees obtained outside Ontario

**17.** Every person who receives bees that have been obtained from outside Ontario shall, within ten days of the receipt of the bees, notify the Provincial Apiarist that the bees have been received.

## Spraying of fruit trees

**18.** No person shall spray or dust fruit trees during the period within which the trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from the trees.

## Location of hives

**19.—**(1) No person in a place other than an urban municipality or suburban district designated under this section shall



place or leave hives containing bees within ten metres of a highway, dwelling or cultivated field.

(2) Subsection (1) does not apply to hives placed or left on lands where the lands are separated from the highway, dwelling or cultivated field by a hedge or a solid fence at least two metres in height and extending at least 4.5 metres from the hives in both directions.

Exception

(3) No person in an urban municipality or suburban district designated under this section shall place or leave hives containing bees within thirty metres of a property line separating the lands on which the hives are placed or left from lands occupied by a dwelling or used for purposes of a community centre, public park or other place of public assembly or recreation.

Location of hives in urban municipalities, etc.

(4) The council of any township may pass by-laws designating as a suburban district any part of the township that adjoins an urban municipality or that adjoins another designated suburban district.

By-laws designating suburban districts

(5) A by-law passed under subsection (4) shall not take effect until it is approved by the Minister.

Approval of Minister

**20.** No person shall sell, transport or ship within Ontario any used honey container that has not been properly cleansed.

Transporting of used containers

**21.—**(1) No person shall be a beekeeper in Ontario without a certificate of registration issued by the Provincial Apiarist.

Certificate of registration

(2) Every application for the issue or renewal of a certificate of registration shall be made to the Provincial Apiarist, be accompanied by the prescribed fee and include such information as the Provincial Apiarist requires.

Application

(3) Every certificate of registration expires on the 31st day of December next following the date on which it was issued.

Expiry

(4) An application for the renewal of a certificate of registration shall be filed with the Provincial Apiarist at least sixty days before the certificate expires.

Time for application for renewal

**22.** No person shall buy, sell or transport bees-wax refuse or used honeycombs between the 1st day of April and the 1st day of December in any year without a permit from the Provincial Apiarist.

Bees-wax refuse and used honeycombs

Records and  
returns

**23.** Every beekeeper and every person who sells bees shall,

- (a) keep such books and records as the regulations prescribe; and
- (b) make such returns in such manner and at such times as the regulations prescribe.

Offence

**24.** Every person who contravenes any provision of this Act or the regulations or any order of the Director, Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 or to imprisonment for a term of not more than thirty days for any subsequent offence.

Regulations

**25.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees that shall be paid for a certificate of registration;
- (b) providing for the keeping of a register of beekeepers;
- (c) prescribing the books and records that shall be kept by beekeepers and by persons who sell bees or package bees;
- (d) prescribing the returns that shall be made to the Provincial Apiarist by beekeepers and by persons who sell bees or package bees;
- (e) requiring and prescribing the reports that shall be made to the Provincial Apiarist by inspectors;
- (f) designating any area in Ontario as a queen bee breeding area and regulating the keeping of bees in such area;
- (g) designating any disease of bees to be a disease within the meaning of this Act;
- (h) designating any insect or parasite to be a pest within the meaning of this Act;
- (i) prescribing forms and providing for their use.

**26.** The *Bees Act*, being chapter 42 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

**27.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**28.** -The short title of this Act is the *Bees Act, 1987*. Short title





# Bill 97

## **An Act to amend the Municipal Act and certain other Acts related to municipalities**

The Hon. B. Grandmaître  
*Minister of Municipal Affairs*

*1st Reading*      June 24th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*



## EXPLANATORY NOTES

### Amendments to the *Municipal Act*:

**SECTION 1.** The proposed amendments to section 51 would alter the procedures for electing a warden by allowing voting by secret ballot, restricting each member of council to one vote and by drawing names to break a tie vote.

**SECTION 2.** Subsection 78 (3) is repealed as it is redundant.

**SECTION 3.** At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of a municipality at a public meeting of the council. The proposed amendment deletes the requirement that the selection by lot be held at a meeting of the council and permits the council to prescribe the manner of making the selection.

**SECTION 4.** The proposed amendment would ensure that agreements for insurance and reciprocal contracts of indemnity or inter-insurance that provided insurance and protection for a municipality, its employees and local boards do not require O.M.B. approval.

**SECTION 5.—Subsection 1.** The proposed amendments to section 160 will increase the annual tax payable from \$50 to \$75 per student in respect to a provincial education institution or a post-secondary school, per resident place in respect to a correctional institution and per rated bed in respect of a public hospital or provincial mental health facility.

**Subsections 2, 3 and 4.** The proposed amendments would delete cross-references to a repealed provision.

**SECTION 6.** The proposed amendments to section 189 would permit council by by-law to borrow by way of a bankers' acceptance or promissory note. At present, it may only do so by promissory note. The proposed subsection 189 (1) clarifies that municipalities may borrow in respect of all anticipated revenues rather than future taxes alone.

The manner in which a bankers' acceptance or promissory note is to be executed is set out in the new subsections 189 (6) and (6a).

**SECTION 7.—Subsection 1.** The proposed amendment to paragraph 3 of section 208 would authorize council to contract for municipal insurance through a reciprocal insurance exchange.

**Subsections 2 and 3.** The proposed amendment to paragraphs 43 and 44 of section 208 would permit council to delegate some of its powers respecting the temporary closing of highways for the purposes listed in the section which now would include the making of movies.

**Subsection 4.** The new paragraph 50 of section 208 would enable the council to act as an insurer to protect its employees against liability while acting in their capacity as employees. The definition of employee is broadened to include certain persons who provide services to the municipality without remuneration and who are designated by by-law.

**Subsection 5.** The proposed paragraph 50a sets out criteria for exchanging reciprocal contracts of indemnity with other municipalities.

**SECTION 8.** Clause (b) of paragraph 96 of section 210 requires fees to be paid by municipal corporations to school boards with respect to children who live in municipally owned trailer camps or parks. The proposed clause (c) exempts municipalities from this requirement if the trailers are liable for assessment and taxation under the *Assessment Act*.

**SECTION 9.** At present, section 218 permits municipalities to require benefitting property owners to pay for their share of the capital cost of a sewage or water works under-

taking according to the principal and interest cost arising from the debentures issued to finance the works. The proposed amendment removes the present restriction so as to allow municipalities discretion in the method of capital financing while maintaining the ability to charge rates against each ratepayer over a number of years to recover the associated capital costs.

**SECTION 10.** The re-enactment of subsection 248 (1) and the enactment of subsections (1a), (1b) and (1c) would give the municipality greater authority to contract for insurance or to act as an insurer in respect of protecting the members of council and any local board from liability in the course of their duties.

**SECTION 11.** The penalty for contravening paragraph 147 of section 210 (discharge of wastes into sewers) would be increased to \$5,000 for the first offence and \$10,000 for any subsequent offence for individuals and \$25,000 and \$50,000, respectively, for corporations.

**SECTION 12.** Under section 386, a municipality by by-law may provide for the payment of taxes in bulk or by instalment and may allow discounts for early payment of taxes or impose an additional percentage charge for the late payment of taxes. The proposed amendments to subsection 386 (6) extend the time during which a taxpayer may take advantage of these provisions from fourteen to twenty-one days after notice thereof is sent to the taxpayer. In addition, the council of a municipality will be authorized to extend the twenty-one day period.

**SECTION 13.** Subsections 387 (1) and (2) provide for the collection of overdue taxes by distress. Under the proposed amendments, the tax collector or treasurer will be required to wait at least twenty-one days, instead of the present fourteen days, before distraining.

**SECTION 14.** The purpose of the proposed new section 496a is to provide a means whereby municipal councils may approve tax refunds in respect of overpayments made due to clerical errors in the assessment roll.

The period for which application may be made is limited to the two years preceding the date of application. An exception is made in 1987 and 1988 where the application may also include a refund of the taxes levied in the years 1982, 1983, 1984 and 1985 under certain circumstances as set out in subsection (6).

A hearing by council is required and a decision of council is final.

**SECTION 15.** The proposed section 498a authorizes the Minister to pay taxes owing to any municipality by tenants of Her Majesty in right of Ontario and to recover all or part of the amount paid from the tenants.

#### **Amendments to the *Municipal Conflict of Interest Act*, 1983:**

**SECTION 16.** Amendments are made to this Act to parallel changes made to the *Municipal Act* respecting municipal insurance.

#### **Amendments to the Regional Municipalities legislation:**

**SECTIONS 17 to 29.** Amendments to each regional municipality Act are made to parallel changes made to the *Municipal Act* respecting the use of bankers' acceptance.



**Bill 97**

**1987**

**An Act to amend the Municipal Act and  
certain other Acts related to municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Subsections 51 (3) and (4) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:**

(3) Subject to subsection (4) and notwithstanding section 62, the warden shall be elected in the manner provided by by-law passed by council prior to the election. Election of  
warden

(4) In the case of an equality of votes for warden, the successful candidate shall be determined by the clerk or presiding member placing the names of the candidates on equal size pieces of paper in a box and one name being drawn by a person chosen by the clerk or presiding member. Tie vote

(5) Notwithstanding anything in this Act, for the purposes of electing the warden, each member of county council shall have one vote. Number of  
votes

**2. Subsection 78 (3) of the said Act is repealed.**

**3. Clause 144 (c) of the said Act is amended by striking out “at a public meeting of the council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the council”.**

**4. Subsection 149 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14, is further amended by adding thereto the following clause:**

- (v) agreements for insurance and reciprocal contracts of indemnity or inter-insurance providing insurance and protection under paragraphs 3 and 50 of section 208 and under section 248 of



1983, c. 8

this Act and under section 14 of the *Municipal Conflict of Interest Act*, 1983.

**5.—**(1) Subsection 160 (1), subsection 160 (3), as amended by the Statutes of Ontario, 1984, chapter 55, section 222, and subsections 160 (4), (5) and (6) of the said Act are amended by striking out “\$50” wherever it occurs and inserting in lieu thereof in each instance “\$75”.

(2) Subsection 160 (8) of the said Act is amended by striking out “(6) or (7)” in the second line and inserting in lieu thereof “or (6)”.

(3) Subsection 160 (9) of the said Act is amended by striking out “(6) or (7)” in the second and third lines and inserting in lieu thereof “or (6)”.

(4) Subsection 160 (11) of the said Act is amended by striking out “(6) or (7)” in the fifth line and inserting in lieu thereof “or (6)”.

**6.—**(1) Subsection 189 (1) of the said Act is repealed and the following substituted therefor:

Current  
borrowings

(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note or bankers' acceptance such sums as the council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) Subsection 189 (6) of the said Act is repealed and the following substituted therefor:

Execution of  
borrowing  
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the treasurer and by the head of the council or by some other person authorized by by-law to sign it.

Idem

(6a) The signature of the head of the council to all promissory notes or bankers' acceptances may be written, engraved, lithographed, printed or otherwise mechanically reproduced and, if such promissory notes or bankers' acceptances are countersigned in writing by the deputy treasurer, the signature



of the treasurer thereon may be written, engraved, lithographed, printed or otherwise mechanically reproduced.

(3) Subsection 189 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(4) Section 189 of the said Act is amended by adding thereto the following subsections:

(13) Where a municipality raises money by means of a bankers’ acceptance, the municipality shall be deemed to be borrowing money.

Deeming provision

(14) A bankers’ acceptance authorized under this section,

Bankers’ acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970, c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81, c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on promissory note

**7.—(1) Paragraph 3 of section 208 of the said Act is repealed and the following substituted therefor:**

3. For contracting for insurance, exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* and for self-insuring, against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor.

Insurance

R.S.O. 1980, c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

(b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were

members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,  
c. 218

R.S.O. 1980,  
c. 303

- (c) A local board, as defined in the *Municipal Affairs Act*, has the same powers to contract for insurance, to exchange reciprocal contracts of indemnity and to self-insure as are conferred upon the council of a municipality under this paragraph.

**(2) Paragraph 43 of the said section 208, as amended by the Statutes of Ontario, 1982, chapter 50, section 23, is further amended by inserting after “thereof” in the fifth line “and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph”.**

**(3) Paragraph 44 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:**

Temporary  
closing of  
highway

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

. . . . .

**(4) Paragraph 50 of the said section 208, exclusive of clauses (b) to (d), is repealed and the following substituted therefor:**

Liability  
insurance,  
payment of  
damages, etc.  
R.S.O. 1980,  
c. 218

50. For contracting for insurance and, notwithstanding the *Insurance Act*, enabling the municipality to be or act as an insurer, to protect the employees of the municipality, or any class of such employees, against risks that may involve liability on the part of the employees and for paying premiums therefor or for paying any damages or costs awarded against any of the employees or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty or for paying any sum required in connection with the settlement of such an action or other proceeding and for assuming the cost of defending any such person in such an action or other proceeding.

(a) In this paragraph,

(i) “employee” means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes,

(A) a member of the police force of the municipality,

(B) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this paragraph; and

(C) any other person or class of person designated as an employee by the Minister;

(ii) “local board” means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,  
c. 303

(e) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this paragraph.

R.S.O. 1980,  
c. 218

**(5) Section 208 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 9, 1982, chapter 50, section 23 and 1987, chapter 10, section 20, is further amended by adding thereto the following paragraph:**

50a. For exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* for the purpose of protecting the employees of the municipality or any local board thereof, or any class of such employees, against those risks which the corporation may insure or self-insure under paragraph 50.

Reciprocal  
contracts of  
indemnity  
R.S.O. 1980,  
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

- (b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,  
c. 218

- (c) Clauses (a) to (d) of paragraph 50 apply, with necessary modifications, to the powers conferred by this paragraph.

**8. Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:**

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

R.S.O. 1980,  
c. 31

**9.—(1) Clause 218 (1) (b) of the said Act is repealed and the following substituted therefor:**

- (b) “capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works and the imputed interest costs determined under subsection (2a).

**(2) Section 218 of the said Act is amended by adding thereto the following subsections:**

Rate of  
interest for  
long-term  
financing

(2a) Where a by-law passed under subsection (2) specifies that the capital cost of the works is to include the imputed interest cost on money supplied from the funds of the municipality to finance the owners' share of the cost of the works, the rate of interest to be applied, for determining the imputed interest cost shall be the interest rate, as certified in writing by the treasurer, that the municipality would have expected to pay to finance the owners' share of the cost of the work by debentures issued on the day named in the certificate having a schedule of maturity dates that would have coincided with the system of collecting the sewer rates or water works rates as established under clause (19) (a).



(2b) A day named in a certificate under subsection (2a), if it is prior to the day that the by-law specifying the capital cost of the works receives first reading, shall not be earlier than sixty days prior to that first reading.

Date of  
certificate

**(3) Subsection 218 (9) of the said Act is repealed and the following substituted therefor:**

(9) Where debentures are issued in respect of sewage or water works, the revenue derived in any year from a rate imposed under subsection (2) for the capital cost of the works shall be applied and used towards payment of principal and interest due in that year upon the debentures, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate imposed under subsection (2).

Revenue  
from rates

(9a) The revenue from the sewer rate or water works rate imposed under subsection (2), if not required for payment of principal and interest due as specified in subsection (9), may be credited by the municipality to its general revenues.

Idem

**10. Subsection 248 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 8, section 16, is repealed and the following substituted therefor:**

(1) The council of every municipality may at any time pass by-laws,

Liability  
insurance,  
payment of  
damages, etc.

(a) for contracting for insurance;

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,  
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

for the purpose of protecting the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of such members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*, arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty or for paying any sum

R.S.O. 1980,  
c. 303

1983, c. 8

required in connection with the settlement of such an action or other proceeding and for assuming the cost of defending any such member in such an action or other proceeding.

R.S.O. 1980,  
c. 218 does  
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of this section.

Investment of  
funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of this Act.

Reserve fund

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,  
c. 218

**11. The said Act is amended by adding thereto the following section:**

Penalties for  
contravention  
of sewage  
by-laws

**321b.**—(1) Notwithstanding section 321, by-laws may be passed by the councils of local municipalities for providing that any person who contravenes a by-law passed under paragraph 147 of section 210 is guilty of an offence and for providing for the imposition of fines of not more than \$5,000 on every person who is convicted of a first offence and \$10,000 for any subsequent offence under any such by-law.

Corporations

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under a by-law passed under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 for the first offence and \$50,000 for any subsequent offence.

**12. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.**

**13.—(1) Subsection 387 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 37, is further amended,**

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

(2) Subsection 387 (2) of the said Act is amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

**14.** The said Act is further amended by adding thereto the following section:

**496a.**—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the years indicated in subsections (5) and (6) may be made by any person who was overcharged by reason of any gross or manifest error in the preparation of the assessment roll that was an error of fact, which may include but is not limited to, clerical errors, the transposition of figures or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

Reduction of taxes, etc., for clerical errors

(2) The council may by by-law appoint a committee composed of at least three persons who are members of council or who are eligible to be elected members of council and such committee shall exercise the functions of council under subsection (10) and where the council has appointed a committee, this section applies, with necessary modifications, to the committee as though it were council.

Delegation to committee

(3) An application under subsection (1) may be made from the 1st day of March until the 31st day of December of any year, by giving written notice to the clerk of the municipality.

When application to be made

(4) Where the Minister of Revenue extends the time for the return of the assessment roll of a municipality under subsection 35 (2) of the *Assessment Act*, an application under this section to the council of that municipality shall not be made earlier than sixty-one days after the assessment roll is returned.

Idem

R.S.O. 1980, c. 31



Application,  
general

(5) An application may be made for taxes levied in either or both of the two years preceding the year in which the application is made if the assessment on the property or business has not been the subject of a complaint or application under section 39 or 50 of the *Assessment Act*, respectively, in either of those years or in the year in which an application is made under this section, but where an error is made subsequent to all such complaints or applications under section 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

R.S.O. 1980,  
c. 31

Application  
in 1987  
or 1988

(6) An application made in 1987 or 1988 may also be made for taxes levied in the years 1982, 1983, 1984 and 1985 if,

- (a) the applicant has advised the municipality of the error before the 31st day of May, 1987; and
- (b) the assessment on the property or business has not been the subject of a complaint or an application under section 39 or 50 of the *Assessment Act* in any of the years 1982 to 1987 or, in 1988 if application is made in that year, but where an error is made subsequent to all such complaints or applications under section 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Notice of  
application

(7) The clerk shall forward a copy of the application to the assessment commissioner and the regional registrar of the Assessment Review Board.

When  
application  
not to go  
to council

(8) The clerk shall not submit an application to council if,

- (a) the regional registrar of the Assessment Review Board indicates that a complaint has been made under section 39 of the *Assessment Act*, during the year that an application is made under this section; or
- (b) the assessment commissioner has not confirmed an error in the assessment referred to in the application.

R.S.O. 1980,  
c. 31

Notice of  
hearing

(9) Notice of a hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Determi-  
nation by  
council

(10) The council may reject the application or,

- (a) if the taxes have not been paid, cancel the whole of the taxes or reduce the taxes;
- (b) if the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) if the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(11) The decision of the council is final.

Decision final

(12) The council shall hear and dispose of every application not later than the 30th day of April in the year following the year in which the application is made and the clerk shall thereupon cause notice of the decision to be given by mail to the persons to whom notice of the hearing of the application was given.

Hearing

(13) The clerk shall deliver or mail a copy of the notice of a decision of council to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

Notice of  
decision to  
assessment  
commissioner

**15. The said Act is further amended by adding thereto the following section:**

**498a.**—(1) The Minister may pay taxes due to a municipality by a tenant, as defined in the *Assessment Act*, of land owned by Her Majesty in right of Ontario or in which Her Majesty in right of Ontario has an interest.

Tax  
arrangements  
for tenants of  
provincial  
government  
R.S.O. 1980,  
c. 31

(2) Where the Minister pays the taxes due in any year on behalf of a tenant under subsection (1) in respect of land occupied by the tenant and the municipality accepts the payment, all future notices of taxes due to the municipality in respect of the tenant's occupancy of the land shall be sent to the Minister and not to the tenant.

Idem

(3) Where the Minister pays taxes on behalf of a tenant under subsection (1), the tenant ceases to be liable to the municipality for the taxes due but the Minister may recover the amount of the taxes in whole or in part from the tenant and the amount billed to a tenant by the Minister under this subsection shall be deemed to be a debt of the tenant owing to Her Majesty in right of Ontario.

Tenant's  
responsibility

Amount  
deemed to  
be taxes

(4) An amount received by a municipality under subsection (1) shall be treated in the same manner as if paid as taxes by the tenant.

**16. Subsection 14 (1) of the *Municipal Conflict of Interest Act*, 1983, being chapter 8, is repealed and the following substituted therefor:**

Insurance  
R.S.O. 1980,  
c. 302

(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws,

(a) for contracting for insurance;

R.S.O. 1980,  
c. 218

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

R.S.O. 1980,  
c. 218 does  
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1).

Surplus funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of the *Municipal Act*.

R.S.O. 1980,  
c. 302

Reserve  
funds

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

**17.—(1) Subsection 83 (1) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.**

(2) Subsection 83 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of  
borrowing  
instruments

(3) Subsection 83 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 83 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 83 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the District Corporation raises money by means of a bankers' acceptance, the District Corporation shall be deemed to be borrowing money.

Deeming  
provision

(14) A bankers' acceptance authorized under this section,

Bankers'  
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,  
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on  
promissory  
note

**18.—**(1) Subsection 222 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 222 (6) of the said Act is repealed and the following substituted therefor:

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or

Execution of  
borrowing  
instruments



by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 222 (7) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 222 (9) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 222 of the said Act is amended by adding thereto the following subsections:

Deeming  
provision

(14) For the purposes of this section, where the Metropolitan Corporation raises money by means of a bankers’ acceptance, the Metropolitan Corporation shall be deemed to be borrowing money.

Bankers’  
acceptance

(15) A bankers’ acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on  
promissory  
note

(16) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

**19.—**(1) Subsection 92 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

Execution of  
borrowing  
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the warden or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each

instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the County raises money by means of a bankers’ acceptance, the County shall be deemed to be borrowing money.

Deeming provision

(14) A bankers’ acceptance authorized under this section,

Bankers’ acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,  
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on promissory note

**20.**—(1) Subsection 104 (1) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 104 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of borrowing instruments

(3) Subsection 104 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 104 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

**(5) Section 104 of the said Act is amended by adding thereto the following subsections:**

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'  
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on  
promissory  
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

**21.—(1) Subsection 86 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.**

**(2) Subsection 86 (5) of the said Act is repealed and the following substituted therefor:**

Execution of  
borrowing  
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 86 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 86 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

**(5) Section 86 of the said Act is amended by adding thereto the following subsections:**

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance,



the Regional Corporation shall be deemed to be borrowing money.

(14) A bankers' acceptance authorized under this section, Bankers' acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada); R.S.C. 1970, c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and 1980-81, c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Interest on promissory note

**22.—(1) Subsection 97 (1) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.**

**(2) Subsection 97 (5) of the said Act is repealed and the following substituted therefor:**

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer. Execution of borrowing instruments

**(3) Subsection 97 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.**

**(4) Subsection 97 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.**

**(5) Section 97 of the said Act is amended by adding thereto the following subsections:**

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money. Deeming provision

(14) A bankers' acceptance authorized under this section, Bankers' acceptance

- R.S.C. 1970,  
c. B-5
- 1980-81,  
c. 40 (Can.)
- (a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);
  - (b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and
  - (c) may be discounted.

Interest on  
promissory  
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

**23.—(1)** Subsection 108 (1) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 108 (5) of the said Act is repealed and the following substituted therefor:

Execution of  
borrowing  
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 108 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 108 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 108 of the said Act is amended by adding thereto the following subsections:

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’  
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on  
promissory  
note

**24.—**(1) Subsection 137 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 137 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of  
borrowing  
instruments

(3) Subsection 137 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 137 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 137 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming  
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’  
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,  
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on  
promissory  
note

**25.—**(1) Subsection 128 (1) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 128 (5) of the said Act is repealed and the following substituted therefor:

Execution of  
borrowing  
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 128 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 128 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 128 of the said Act is amended by adding thereto the following subsections:

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’  
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on  
promissory  
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

**26.—**(1) Subsection 92 (1) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.



(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of  
borrowing  
instruments

(3) Subsection 92 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 92 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming  
provision

(14) A bankers' acceptance authorized under this section,

Bankers'  
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,  
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on  
promissory  
note

**27.—**(1) Subsection 79 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 79 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or

Execution of  
borrowing  
instruments

by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 79 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 79 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 79 of the said Act is amended by adding thereto the following subsections:

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’  
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on  
promissory  
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

**28.—**(1) Subsection 126 (1) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 126 (5) of the said Act is repealed and the following substituted therefor:

Execution of  
borrowing  
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 126 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in



each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 126 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 126 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming  
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’  
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,  
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,  
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on  
promissory  
note

**29.—**(1) Subsection 129 (1) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 129 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of  
borrowing  
instruments

(3) Subsection 129 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 129 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

**(5) Section 129 of the said Act is amended by adding thereto the following subsections:**

Deeming  
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'  
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,  
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,  
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on  
promissory  
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Commence-  
ment

**30.—(1) This Act, except sections 5, 8, 12, 13 and 15, comes into force on the day it receives Royal Assent.**

Idem

**(2) Sections 5, 8 and 15 shall be deemed to have come into force on the 1st day of January, 1987.**

Idem

**(3) Sections 12 and 13 come into force on the 1st day of January, 1988.**

Short title

**31. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.**

# Bill 98

## An Act to amend the Health Protection and Promotion Act, 1983

The Hon. M. Elston  
*Minister of Health*



*1st Reading*      June 24th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

## EXPLANATORY NOTE

**SECTION 1.** Subsection 37a (2) now reads as follows:

*(2) A physician or other person authorized to administer an immunizing agent shall, before administering it to a patient, inform the patient, or where the patient is not competent to consent, the person authorized to consent on the patient's behalf, of benefits or possible adverse reactions to it and of the importance of reporting to a physician forthwith any reaction that might be a reportable event.*

The proposed amendment reflects the common law duty of a physician to inform his or her patient as to the material risks of a procedure.

**Bill 98**

**1987**

**An Act to amend the  
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 37a (2) of the *Health Protection and Promotion Act, 1983*, being chapter 10, as enacted by the Statutes of Ontario, 1987, chapter 18, section 2, is repealed and the following substituted therefor:

(2) A physician or other person authorized to administer an immunizing agent, before administering it to a patient, shall cause the patient, or where the patient is not competent to consent, the person authorized to consent on the patient's behalf, to be informed of the benefits and material risks of the immunization and of the importance of reporting to a physician forthwith any reaction that might be a reportable event.

Duty to  
inform  
patients

**2.** This Act shall be deemed to have come into force on the 21st day of May, 1987.

Commence-  
ment

**3.** The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Short title





# Bill 98

*(Chapter 32  
Statutes of Ontario, 1987)*

## **An Act to amend the Health Protection and Promotion Act, 1983**

**The Hon. M. Elston**  
*Minister of Health*

<i>1st Reading</i>	June 24th, 1987
<i>2nd Reading</i>	June 25th, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987



**Bill 98-**

**1987**

**An Act to amend the  
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 37a (2) of the *Health Protection and Promotion Act, 1983*, being chapter 10, as enacted by the Statutes of Ontario, 1987, chapter 18, section 2, is repealed and the following substituted therefor:

(2) A physician or other person authorized to administer an immunizing agent, before administering it to a patient, shall cause the patient, or where the patient is not competent to consent, the person authorized to consent on the patient's behalf, to be informed of the benefits and material risks of the immunization and of the importance of reporting to a physician forthwith any reaction that might be a reportable event.

Duty to  
inform  
patients

**2.** This Act shall be deemed to have come into force on the 21st day of May, 1987.

Commence-  
ment

**3.** The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Short title



# Bill 99

## An Act to protect and enhance the Quality of Drinking Water in Ontario

Mrs. Grier



*1st Reading*      June 24th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

## EXPLANATORY NOTES

The Bill is intended to protect and enhance drinking water quality in Ontario.

It provides opportunities for public involvement in the making of regulations to set maximum permissible levels for contaminants and other substances in drinking water. These regulations would apply to both public and private water systems.

The operator of a public water system is required to monitor water quality regularly and notify the users of the system as well as the Minister of the Environment of the results. Any user of a private water system may have the water tested by the Ministry of the Environment.

It is an offence for the operator of a public water system to provide water which contravenes the regulations or to fail to comply with monitoring and notice requirements. It is an offence for anyone to pollute a public or private water system.

The Bill permits water users to sue to recover damages for contraventions of the Act and gives any person standing to seek judicial review against the Minister of the Environment.

The Minister is authorized to commission research into matters related to drinking water quality and an advisory council is created to assist the Minister.



**Bill 99****1987**

**An Act to protect and enhance the  
Quality of Drinking Water in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpretation

- (a) “Board” means the Water Review Board;
- (b) “contaminant” means any biological, chemical or physical agent or combination thereof prescribed as a contaminant;
- (c) “Gazette” means *The Ontario Gazette*;
- (d) “Minister” means the Minister of the Environment;
- (e) “prescribed” means prescribed by the regulations;
- (f) “private water system” means any water system that has fewer than fifteen service connections or regularly serves fewer than twenty-five individuals;
- (g) “public water supplier” means a person who operates a public water system;
- (h) “public water system” means any water system that has fifteen or more service connections or regularly serves twenty-five or more individuals;
- (i) “substance” means anything that affects the odour, appearance or taste of drinking water and is prescribed as a substance;
- (j) “user”, when used in connection with a water system or public water supplier, means a person who obtains water from the system or supplier;

- (k) “water system” means any works for the collection, supply and distribution of water that may be used as drinking water.

Purpose

**2.** The purpose of this Act is the protection and enhancement of drinking water quality throughout Ontario.

#### DUTIES OF SUPPLIERS

Duties of  
supplier

**3.** Every public water supplier shall,

- (a) conduct complete water tests in accordance with the regulations, monthly or more frequently as may be prescribed by regulation, to establish contaminant and substance levels and compliance with prescribed standards;
- (b) promptly publish the results of all tests conducted under clause (a) in a newspaper that is published in the community where the supplier’s regular users reside;
- (c) supply the results of all tests conducted under clause (a) to every user together with the regular water bill;
- (d) promptly report the results of all tests conducted under clause (a) to the Minister;
- (e) keep full records of all tests conducted under clause (a) and make them available to any person upon request;
- (f) where a test reveals that maximum permitted contaminant levels or maximum permitted substance levels are exceeded or prescribed standards are not adhered to,
  - (i) take immediate steps to cause the water to comply with this Act and the regulations, and
  - (ii) make an alternate supply of safe drinking water available to all users until the main supply complies with this Act and the regulations.

#### PUBLIC INVOLVEMENT IN REGULATION-MAKING

Draft  
regulations  
concerning  
contaminants

**4.—(1)** The Minister shall within 180 days after the day this Act comes into force publish in the Gazette a notice set-

ting forth proposed regulations under clause 14 (2) (b) and calling for briefs and submissions in connection therewith.

(2) Any person may within ninety days after the publication of a notice under subsection (1) or (6) require the Board to hold a hearing into any of the proposed regulations by delivering a notice of objection to the Board.

Objection

(3) The Board shall hold any hearing required under subsection (2) expeditiously and may consolidate any such hearings where common issues are raised.

Hearing

(4) Upon completion of all hearings under subsection (2), the Board shall report its findings and conclusions to the Minister and shall provide a copy of the report to every person who delivered a notice of objection under subsection (2).

Report

(5) Regulations under clause 14 (2) (b) shall come into force on or before a day fifteen months after the coming into force of this Act.

Effective date

(6) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (b), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith.

Further regulations

**5.—**(1) The Minister shall within 240 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (c) and calling for briefs and submissions in connection therewith.

Draft regulations concerning substances

(2) Regulations under clause 14 (2) (c) shall come into force on or before a day fifteen months after the coming into force of this Act.

Effective date

(3) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (c), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith.

Further regulations

OFFENCES

**6.—**(1) No public water supplier shall cause or permit to be supplied to users,

Supplying unsafe water

- (a) water containing any contaminant that exceeds the applicable maximum permitted level; or

- (b) water containing any substance that contravenes a prescribed standard or exceeds the applicable maximum permitted level.

Polluting  
water  
system

(2) No person shall deposit in, add to, emit or discharge into a public water system or a private water system any contaminant or substance so as to cause the water to exceed the maximum permitted level for the contaminant or substance or to contravene a prescribed standard.

Penalties

**7.** Any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to,

- (a) in the case of a contravention of section 6 that relates to a contaminant, a fine not exceeding \$50,000; and
- (b) in the case of any other contravention, a fine not exceeding \$25,000.

#### PRIVATE REMEDIES

Action for  
damages

**8.—(1)** Any person may, by action, recover damages caused by a contravention of this Act or the regulations from the person who committed the contravention.

Judicial  
review

(2) Any person may apply for judicial review of the Minister's exercise or non-exercise of any power or fulfilment or non-fulfilment of any duty conferred or imposed on the Minister by this Act, whether or not the person applying is specially affected or has suffered special damages.

#### WATER REVIEW BOARD AND WATER ADVISORY COUNCIL

Water  
Review  
Board  
established

**9.—(1)** The Water Review Board is hereby established and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuneration

(4) The members of the Board may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and the member has all the powers of the Board for the purpose of the hearing.

One member  
may conduct  
hearing

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

Report

**10.**—(1) The Water Advisory Council is hereby established and shall consist of not fewer than ten and not more than fifteen persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Water  
Advisory  
Council  
established

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman.

Chairman  
and vice-  
chairman

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to drinking water quality.

Members

(4) A retiring member of the Council is eligible for reappointment.

Reappoint-  
ments

(5) The members of the Council may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Remuneration

**11.** The Water Advisory Council, through its chairman, shall,

Duties of  
Council

(a) advise the Minister as to the results of current research related to,

(i) drinking water quality, and

(ii) contaminants and substances and their effects;  
and

(b) consider any matter affecting drinking water quality that the Council or the Minister considers advisable and advise the Minister thereon.

#### STUDIES

**12.** The Minister shall cause research to be conducted into,

Research



- (a) the causes, diagnosis, treatment, control and prevention of health effects associated with contaminants or substances;
- (b) the quality, quantity and availability of private water supplies;
- (c) the sources of surface and ground water contamination; and
- (d) methods of treating or purifying drinking water.

Testing of  
private  
water  
system

**13.** The Minister shall, at the request of any user of a private water system, cause the water to be tested in accordance with the regulations to establish contaminant and substance levels and compliance with prescribed standards.

Regulations

**14.**—(1) The Lieutenant Governor in Council may make such regulations as are advisable to protect and enhance drinking water quality throughout Ontario.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) designating any biological, chemical or physical agents or combinations thereof as contaminants and prescribing maximum permissible contaminant levels;
- (b) designating anything as a substance, prescribing standards for substances in water and prescribing maximum permissible substance levels;
- (c) respecting procedures for water tests to be conducted under clause 3 (a) and section 13;
- (d) prescribing greater frequencies than monthly for water tests to be conducted under clause 3 (a) and prescribing the circumstances under which such more frequent tests shall be conducted.

Commence-  
ment

**15.** This Act comes into force on the day it receives Royal Assent.

Short title

**16.** The short title of this Act is the *Ontario Safe Drinking Water Act, 1987*.



# Bill 100

## An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

Mr. Runciman



*1st Reading*      June 24th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTES

The Act allows the Attorney General to offer protection, including relocation and a new identity, to Crown witnesses whose lives or safety are jeopardized by their willingness to testify at certain criminal proceedings.

Where the offer of protection is accepted, its terms must be set out in a memorandum of understanding between the witness and the Attorney General. If there is a dispute as to the terms of the memorandum, the matter may be referred to a member of the Criminal Injuries Compensation Board for a hearing and report, including a recommendation for settlement.

## Bill 100

1987

## An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board continued under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,  
c. 82

“Minister” means the Attorney General;

“witness” means a person whom the Crown intends to call or has called as a witness in a criminal proceeding.

**2.**—(1) Subject to section 3, the Minister may offer to provide protection to a witness whose life or health is likely to be in danger as a result of giving or intending to give testimony in a criminal proceeding.

Minister may  
offer  
protection to  
Crown  
witness

(2) The protection provided by the Minister under this Act may include, but is not limited to,

Nature of  
protection

- (a) protection for the witness, his or her spouse and children;
- (b) protection before or after the proceedings in which the witness is to testify, or both;
- (c) relocation to any place in Canada or, if necessary, in the United States of America;
- (d) an undertaking to provide a new identity, including a past history and work record;
- (e) temporary or permanent financial assistance; and

(f) assistance in obtaining employment.

Factors  
relating to  
offer of  
protection

**3.** Before offering protection to a witness under this Act, the Minister shall consider,

- (a) the seriousness of the offence to which the proceedings in which the witness is to testify relate;
- (b) alternative sources of testimony; and
- (c) the risk of danger to the public as a result of the relocation of the witness.

Memorandum  
of  
understanding

**4.—**(1) Where a witness accepts the Minister's offer of protection, the terms of the offer shall be set out in a memorandum to be signed by the witness before the witness testifies in the proceeding.

Idem

(2) A witness is not entitled to protection under this Act until the Minister has received the signed memorandum.

Obligations  
of witness

(3) The memorandum shall be in the form approved by the Minister and shall include the witness's agreement, in exchange for protection,

- (a) to testify in the proceeding;
- (b) to take all necessary steps to avoid detection; and
- (c) to abide by all laws.

Dispute as to  
terms of  
memorandum

**5.—**(1) Where a dispute arises with respect to the terms of a memorandum, the Minister shall, at the request of the witness, refer the matter to a member of the Board for a hearing to be held *in camera*.

Parties

(2) The witness, the Minister or his or her delegate and any other person added by the Board member shall be parties to the hearing.

Notice

(3) The Board member shall fix a time and place for the hearing and, unless all parties waive notice of the hearing, shall notify the parties at least ten days before the day fixed.

Report

(4) The Board member shall report his or her conclusions, including a recommendation for the settlement of the dispute, to the Minister.

Idem

(5) A copy of the report shall be served on the other parties.

(6) The Minister shall consider the Board member's report and may implement its recommendations. Consideration of report

6. The Minister may disclose the identity or location of a protected witness if, in his or her opinion, the benefit of the disclosure to the person requesting the information outweighs the risk to the witness. Disclosure of witness identity or location

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

8. The short title of this Act is the *Crown Witness Protection Act, 1987*. Short title









# Bill 101

## An Act to amend the Ontario Energy Board Act

Mr. Charlton



---

*1st Reading*      June 24th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTE

The purpose of the Bill is to give the Ontario Energy Board additional powers to regulate rates and to investigate matters such as capacity, price and source of supply.

# Bill 101

1987

## An Act to amend the Ontario Energy Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 13 of the *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:**

(7) The Board has power to investigate capacity reserve margins and other liability criteria and the adequacy of supply from sources from outside Ontario. Investigation

(8) Where the Board conducts an investigation under subsection (7), it shall report the results of the investigation to the Minister. Report

**2. Subsection 27 (1) of the said Act is amended by adding thereto the following clause:**

- (e) make rules governing its practice and procedure in any matter required to be done under clause 35 (1) (ba), (ha) or (hb).

**3. Subsection 35 (1) of the said Act is amended by adding thereto the following clauses:**

- (ba) authorizing and requiring the Board to fix rates pursuant to a public hearing held under section 37 and prescribing the conditions and circumstances when the Board shall fix rates pursuant to a public hearing;

. . . . .

- (ha) authorizing the Board to regulate rate levels and structures and prescribing the methods and procedures to be followed when so regulating;

(hb) authorizing the Board to regulate the supply and prices to be paid to non-utility producers and prescribing the methods and procedures to be followed when so regulating.

Commence-  
ment

**4. This Act comes into force on the day it receives Royal Assent.**

Short title

**5. The short title of this Act is the *Ontario Energy Board Amendment Act, 1987*.**



# Bill 102

## **An Act to amend the Ministry of Colleges and Universities Act**

Mr. Warner



---

*1st Reading*      June 24th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

#### EXPLANATORY NOTE

The purpose of the Bill is to provide a vote on both the board of governors and the college council for students and staff members. The representatives are to be democratically elected by their peers with equal numbers of males and females from each group.

Bill 102

1987

## An Act to amend the Ministry of Colleges and Universities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 5 of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:**

(3a) In addition to those members provided for by the regulations, each board of governors of a college shall be composed of members who shall be elected democratically from among each of the following groups of persons at the college to represent the interests of that group on the board of governors, such that there is an equal number of male and female members from each group: Idem

1. Administrative staff members, being persons who are employed by the board of governors and who are not academic staff members or support staff members.
2. The bargaining unit of the academic staff.
3. The bargaining unit of the support staff.
4. Students.
5. All persons other than those referred to in paragraphs 1 to 4 who are employed by the board of governors.

(3b) There shall be a college council for each college of applied arts and technology that shall be composed of members who shall be elected democratically from among each of the following groups of persons at the college to represent the interests of that group on the college council, such that there College council

is an equal number of male and female members from each group:

1. Administrative staff members, being persons who are employed by the board of governors and who are not academic staff members or support staff members.
2. The bargaining unit of the academic staff.
3. The bargaining unit of the support staff.
4. Students.

When person  
ceases to be  
member

(3c) Where a person elected to a board of governors or a college council ceases to be a member of the group he or she represents, the person ceases to be a member of the board or college council.

Idem

(3d) Notwithstanding subsection (3c), a student appointed to a board of governors or a college council who graduates prior to the expiration of the student's term may remain a member until the expiration of such term.

Commence-  
ment

**2. This Act comes into force on the day it receives Royal Assent.**

Short title

**3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1987*.**

# Bill 103

## An Act respecting Prearranged and Prepaid Funerals

The Hon. M. Kwinter

*Minister of Consumer and Commercial Relations*



*1st Reading*      June 25th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to regulate agreements to offer prepaid funeral services. The main features of the Bill are as follows:

1. Only holders of funeral establishment licences who participate in a compensation fund may contract to provide prepaid funeral services. (Section 2)
2. A contract to provide for prepaid funeral services may be cancelled by the beneficiary at any time before it is fulfilled. (Section 4)
3. There are provisions governing excess funds and limits on costs and payments.
4. Provisions are made for the establishment of trust accounts and the regulating and inspections of trust accounts.
5. Provision is made for a compensation fund and mandatory participation in the fund.



# Bill 103

1987

## An Act respecting Prearranged and Prepaid Funerals

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“beneficiary” means the person for whom any funeral services are to be provided under a contract;

“Compensation Fund” means the Prepaid Funeral Services Compensation Fund established under the regulations;

“contract” means an agreement whereby in consideration of,

(a) any payment prior to the death of the beneficiary,  
or

(b) a purchaser entering into an insurance contract or plan under which any licensee is to receive directly or indirectly the proceeds of an insurance policy,

a person contracts to provide or make provision for any funeral services upon the death of a beneficiary;

“depository” means a chartered bank, loan or trust company, Province of Ontario Savings Office or credit union as defined in the *Credit Unions and Caisses Populaires Act*;

R.S.O. 1980,  
c. 102

“Director” means the Director appointed under the *Ministry of Consumer and Commercial Relations Act*;

R.S.O. 1980,  
c. 274

“disbursements” means payments usually made by a funeral director on behalf of a purchaser of funeral services;

“funeral director” means a funeral director under the *Funeral Services Act*;

R.S.O. 1980,  
c. 180

“funeral services” means funeral services supplied under the *Funeral Services Act* and funeral supplies;

“income” means the interest or other money earned, including the compounding thereof, by the investment of funds received under a contract;

“licensee” means the holder of a funeral services establishment licence;

“Minister” means the Minister of Consumer and Commercial Relations;

“prearrangement” means an arrangement for the provision of specific funeral services on the death of a person who is alive at the time the arrangement is made;

“prepayment” means the payment or the guarantee of the payment pursuant to a contract;

“prepayment funds” means the money deposited in trust under the provisions of this Act and the income therefrom;

“prescribed” means prescribed by the regulations;

“purchaser” means the person who purchases funeral services under a contract;

“Registrar” means the Registrar of the Board of Funeral Services;

“regulations” means the regulations made under this Act.

Restrictions  
on contracts

**2.—**(1) No person other than a licensee who is a participant in good standing in the Compensation Fund shall enter into or offer to enter into a contract with a purchaser.

Exception

(2) Subsection (1) does not apply to a person selling funeral supplies under the authority of another Act.

Contract

**3.—**(1) No contract shall contain a provision for the prepayment of disbursements, a cemetery plot or cemetery supplies as defined in the *Cemeteries Act*.

R.S.O. 1980,  
c. 59

Offence

(2) No licensee or funeral director shall enter into a contract that is in contravention of subsection (1).

Cancellation  
of contracts

**4.—**(1) A beneficiary or a beneficiary's personal representative may cancel a contract at any time prior to the delivery of all the services contracted for.

Idem

(2) Subsection (1) applies to a contract made before this Act comes into force.

5. No person shall charge or accept any payment with respect to the prearrangement of funeral services in addition to those agreed to under a contract. Limit on payments

6.—(1) Every person who receives payment under a contract shall hold the amount of the payment together with all income accrued thereon in trust for the beneficiary until it is disbursed in accordance with this Act. Trusts

(2) Where a contract is cancelled, the person holding funds in trust under that contract shall forthwith pay the funds and all income accrued thereon to the beneficiary. Idem

7. Where a contract is fulfilled and notwithstanding any contrary provision in the contract, the balance, if any, of the prepayment funds that are in excess of the cost of delivering the services contracted for shall be paid to the beneficiary's estate forthwith. Excess funds

8. The cost of delivering the services required under a contract shall not exceed the amount that would otherwise be charged for the same services if there had not been prepayment. Limit on costs

9.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the manner in which trust accounts shall be kept and accounted for and providing for their inspections;
- (b) prescribing the duties of depositories;
- (c) governing receipts to be given by funeral directors and licensees;
- (d) providing for the establishment, maintenance and administration of a Compensation Fund including prescribing provisions relating to the investing and paying out of money from the fund;
- (e) providing for the payment of levies into the Compensation Fund and prescribing the amounts of levies;
- (f) providing for appeals from a refusal to pay out of the Compensation Fund;
- (g) governing the powers and duties of the trustee administering the Compensation Fund;

- (h) requiring the purchase of bonds for the purpose of indemnifying the Compensation Fund and prescribing the terms of the bonds;
- (i) providing for payment out of the Compensation Fund of claims and procedures to be followed in respect thereto;
- (j) requiring participation in the Compensation Fund by licensees and funeral directors;
- (k) on any matter relating generally to the purchase, renewal or terms of a bond or the disposition of payments received thereunder;
- (l) governing contracts including the cancellation of contracts and prescribing the terms that a contract shall be deemed to contain;
- (m) prescribing conditions under which contracts may be assigned and prohibiting any assignments that are not in accordance with the prescribed conditions;
- (n) regulating, limiting or prohibiting the soliciting of contracts;
- (o) regulating the advertising of prepaid funeral services;
- (p) exempting any class of persons from the application of any provision of this Act or the regulations and prescribing conditions for any exemption;
- (q) governing the books, accounts and records that shall be kept by funeral directors and licensees;
- (r) prescribing information to be provided by funeral directors and licensees to the Registrar and requiring the reporting thereof;
- (s) requiring and providing for the inspections of records, accounts and documents kept by funeral directors and licensees;
- (t) governing the books and records to be submitted by the Board of Funeral Services to the Minister;
- (u) prescribing forms for the purpose of this Act and the regulations and providing for their use.

(2) Any regulation made under this section may be retroactive in effect and may apply to contracts entered into before this Act comes into force. Retroactivity

**10.**—(1) Any person designated as an inspector in writing by the Registrar may, during normal business hours upon production of the designation, enter any funeral service establishment or any place of business of a funeral director to examine books, records, accounts or documents required to be kept under this Act. Inspections

(2) Every person designated by the Registrar as an inspector is authorized to examine any books, records, accounts or documents required to be kept under this Act. Idem

(3) No person shall obstruct an inspector from examining anything that the inspector is authorized to examine or withhold from the inspector or conceal or destroy anything that the inspector is authorized to examine or copy. Idem

(4) An inspector examining anything under this section may, on giving a receipt therefor, remove the thing for the purpose of making copies thereof but the copying must be made quickly and the record promptly returned. Idem

(5) Any copy made under subsection (4) and certified as a true copy by the person making it is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the record copied and its contents. Idem

**11.**—(1) Where, upon a statement made under oath, the Director has reasonable grounds to believe that any person has contravened any of the provisions of this Act or the regulations, the Director may, by order, appoint an investigator to ascertain whether a contravention has occurred, and the person appointed shall report the result of the investigation to the Director. Investigation

(2) For purposes relevant to the subject-matter of an investigation under this section, the investigator may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, Idem

- (a) enter in or upon the lands or premises of a person at any reasonable time without a warrant for the purpose of carrying out an inspection, audit or examination;



- (b) require the production for inspection, audit or examination of all books of account, documents, vouchers, payrolls, records, letters patent, by-laws, minutes of directors' meetings or documents that are or may be relevant to the inspection, audit or examination;
- (c) upon giving a receipt therefor, remove any books, papers, records or documents examined under clause (b) for the purpose of making copies or extracts, but such copying shall be carried out with reasonable dispatch and the books, papers, records or documents shall be promptly returned;
- (d) make any inquiries of any person separate from another person that are or may be relevant to the inspection audit or examination and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,  
c. 411

Entry  
restricted

(3) No person appointed under subsection (1) shall enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,  
c. 400

Obstruction  
prohibited

(4) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search

(5) Where a justice of the peace is satisfied, upon an application by the person making an investigation under this section, that the investigation has been ordered and that the person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officers as he or she calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of

the peace, by the order, authorizes the person making the investigation to make the search at night.

(6) Any copy made pursuant to subsection (2) that is certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original book, paper or document and its contents.

Copies

**12.** No proceeding under subsection 14 (1) shall be commenced more than two years after the facts upon which the proceeding is based first come to the attention of the Registrar.

Time  
prescription

**13.—**(1) Where,

Order to  
refrain from  
dealing with  
assets

- (a) an investigation of any person has been ordered under section 11; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a licensee,

the Director, if he or she believes it advisable for the protection of customers of the person referred to in clause (a) or (b) may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (a) or (b) to hold such assets or trust funds or direct the person referred to in clause (a) or (b) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of customers in his or her possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator legally appointed, or until the Director revokes the direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

(2) Subsection (1) does not apply where the person referred to in clause (1) (a) or (b) files with the Director,

Bond in lieu

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1980,  
c. 192



in such form, terms and amount as the Director may determine.

Application  
for direction

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Cancellation  
of direction

(4) Any person referred to in clause (1) (a) or (b) in respect of whom a direction has been given by the Director under subsection (1) may, at any time, apply to the Commercial Registration Appeal Tribunal for cancellation in whole or in part of the direction and the tribunal shall dispose of the application after a hearing and may, if it finds that the direction is not required in whole or in part for the protection of customers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the tribunal may specify are parties to the proceedings before the tribunal.

Offence

**14.**—(1) Every person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 and in default of payment to imprisonment for not more than six months.

Idem

(2) Where a corporation is convicted of an offence under this Act, the maximum fine that may be imposed on the corporation is \$40,000 and not as provided in subsection (1).

Idem

(3) Where a corporation has been convicted of an offence under this Act,

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he or she satisfies the court that he or she did not authorize, permit or acquiesce in the offence.

Repeal

**15.** The *Prearranged Funeral Services Act*, being chapter 387 of the Revised Statutes of Ontario, 1980, is repealed.

**16.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**17.** The short title of this Act is the *Prepaid Funeral Services Act, 1987*. Short title



# Bill 104

## An Act to amend the Funeral Services Act

The Hon. M. Elston  
*Minister of Health*



---

*1st Reading*      June 25th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

## EXPLANATORY NOTES

The Bill is complementary to the proposed *Prepaid Funeral Services Act, 1987*.

The changes to the Act are as follows:

1. The composition of the Board is changed from five funeral directors and three laymen to six funeral directors and five laymen. (Section 1 (1))
2. The quorum for the Board is changed from three members, one of whom must be a layman, to five members, two of whom must be laymen. (Section 1 (2))
3. The duties of the Board are expanded. (Sections 2, 3)
4. Participation in a compensation fund will be mandatory. (Section 4)

**Bill 104**

**1987**

## **An Act to amend the Funeral Services Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Subsection 2 (2) of the *Funeral Services Act*, being chapter 180 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

(2) The Board shall be composed of,

Composition

- (a) six funeral directors, one of whom is not licensed to establish and maintain and who does not direct the operation of a funeral services establishment; and
- (b) five persons who are not licensees under this Act,

appointed by the Lieutenant Governor in Council.

**(2) Subsection 2 (5) of the said Act is repealed and the following substituted therefor:**

(5) Five members of the Board, at least two of whom must be members appointed under clause (2) (b), constitute a quorum.

Quorum

**2.—(1) Subsection 4 (1) of the said Act is amended by adding thereto the following clauses:**

- (h) to administer the Prepaid Funeral Services Compensation Fund;
- (i) to oversee and inspect trust accounts that funeral directors are required by law to establish or maintain,

. . . . .

**(2) Subsection 4 (2) of the said Act is amended by adding thereto the following clause:**



1987, c. ...

- (c) deliver to the Minister of Consumer and Commercial Relations on or before the 31st day of January in each year a report on the operation of the *Prepaid Funeral Services Act, 1987* and make recommendations to the said Minister thereon.

**3.—**(1) Subsection 7 (1) of the said Act is amended by striking out “as hereinafter provided” in the first and second lines.

(2) The said subsection 7 (1) is further amended by adding thereto the following clause:

- (e) Compensation Fund Committee,

. . . . .

**4.** Section 24 of the said Act is amended by adding thereto the following subsection:

Condition of  
licence

- (4) It is a condition precedent and subsequent to obtaining and maintaining a funeral services establishment licence that the applicant or licensee, as the case may be, be a participant in good standing in the Prepaid Funeral Compensation Fund.

**5.** Clause 26 (c) of the said Act is amended by adding at the end thereof “or the *Prepaid Funeral Services Act, 1987* or the regulations thereunder”.

Commence-  
ment

**6.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**7.** The short title of this Act is the *Funeral Services Amendment Act, 1987*.

# Bill 105

## **An Act to provide Pay Equity for Employees in Predominantly Female Groups of Jobs in the Public Service**

The Hon. W. Wrye  
*Minister of Labour*



*1st Reading*      April 22nd, 1986  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

## EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in predominantly female groups of jobs in the public service of Ontario. Among the features of the Bill are the following:

1. The Act applies to the Crown in right of Ontario and the boards, agencies and commissions named in section 2, their respective employees and the bargaining agents of the employees.
2. Systemic gender discrimination will be identified through comparisons between a representative job level in each predominantly female group of jobs (as defined in section 1) and a job level in a predominantly male group of jobs (as defined in section 1) in terms of relative compensation and of the relative value of the work. (Section 3)
3. A criterion for determining value is set out. (Section 4)
4. A test for the achievement of pay equity is set out. (Section 5)
5. Pay equity plans must be established and implemented. (Section 6)
6. Every pay equity plan must provide for a gender-neutral job comparison or evaluation system and must provide for adjustments in rates of compensation in predominantly female groups of jobs, where necessary, to achieve pay equity. (Section 7)
7. An employer cannot reduce compensation to achieve pay equity. (Section 9)
8. Pay equity plans are binding on employers, employees and the bargaining agents of employees. (Section 10)
9. Pay equity plans must be acted upon as soon as they are filed with the Commission or as soon as they are established by it. (Subsection 11 (1))
10. Pay equity plans are to be developed in stages by each employer. Initially, for each employer, there will be a separate plan for each bargaining unit and a separate plan for those outside the bargaining units. (Parts III and IV). Then there will be a combined bargaining unit pay equity plan for each employer. (Part V). Finally, there will be a comprehensive pay equity plan for each employer that applies both inside and outside the bargaining units. (Part VI)
11. An employer will be required to make annual adjustments in rates of compensation representing at least 1 per cent of payroll for the preceding year until pay equity is achieved. However, during the initial phases of the first stage or if extensions of time are granted, the employer may be required to give increases in a year in excess of 1 per cent of payroll for the preceding year. (Subsections 11 (3) to (8))
12. Bargaining unit pay equity plans are to be negotiated between the employer and the appropriate bargaining agent or agents. If no agreement is reached, a single arbitrator will be appointed to decide the matters in issue. (Parts III and V)
13. The employer will be responsible for preparing non-bargaining unit and comprehensive pay equity plans. The employer will be required to consult the bargaining agents during the preparation of the comprehensive pay equity plan. (Parts IV and VI)

14. A commission known as the Pay Equity Commission is established. Among its powers, it may review and vary pay equity plans or establish plans where an employer has failed to do so. It will also be able to hear complaints. (Parts VII and VIII)

-



**Bill 105**

**1987**

**An Act to provide Pay Equity for Employees  
in Predominantly Female Groups of Jobs  
in the Public Service**

**CONTENTS**

**Section**

**PART I**

**INTERPRETATION AND  
APPLICATION**

1. Definitions
2. Application

**PART II**

**PAY EQUITY: GENERAL**

3. Purpose
4. Value determination
5. Achievement of pay equity
6. Pay equity plans required
7. Contents of plans
8. Exclusions from plans
9. Reduction of compensation prohibited
10. Employer, employees and bargaining agents bound by plan
11. Implementation of pay equity plans

**PART III**

**BARGAINING UNIT  
PAY EQUITY PLANS**

12. Negotiation of plan
13. Arbitration

**PART IV**

**NON-BARGAINING UNIT  
PAY EQUITY PLANS**

14. Preparation of plan

**PART V**

**COMBINED BARGAINING UNIT  
PAY EQUITY PLANS**

15. Negotiation of plan

**Section**

**PART VI**

**COMPREHENSIVE  
PAY EQUITY PLANS**

16. Preparation of plan

**PART VII**

**PAY EQUITY COMMISSION**

17. Commission established
18. Commission proceedings
19. Powers and duties
20. Review and approval of pay equity plans
21. Enforcement of orders and directions
22. Exclusive jurisdiction of Commission
23. Testimony in civil proceedings
24. Annual report

**PART VIII**

**COMPLAINTS**

25. Complaints during implementation of plans
26. Complaints after implementation of plans
27. Duty of Commission

**PART IX**

**MISCELLANEOUS**

28. Regulations
29. Moneys
30. Commencement
31. Short title

## Preamble

Whereas it is desirable that affirmative action be taken to provide for pay equity for employees employed in predominantly female groups of jobs in the public service of Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## PART I

## INTERPRETATION AND APPLICATION

## Definitions

**1.—(1)** In this Act,

“arbitrator” means a single arbitrator appointed by the Minister under section 13;

“bargaining agent” means,

R.S.O. 1980,  
c. 108

(a) an employee organization that has representation rights under the *Crown Employees Collective Bargaining Act*,

R.S.O. 1980,  
c. 418

(b) the Association authorized under the *Public Service Act* as exclusive bargaining agent for members of the Ontario Provincial Police;

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commission” means the Pay Equity Commission established by this Act;

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“effective date” means the day Part II comes into force;

“employee” means,

(a) a public servant as defined in the *Public Service Act*,

(b) a person employed by The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority or Workers' Compensation Board;



“employer” means the employer of an employee to whom this Act applies;

“group of jobs” means a grouping or series of jobs that bear a relationship to each other because of the nature of the work required to perform them and that are organized in successive job levels, and, where there are no such job levels, means jobs that are grouped together for the purposes of compensation;

“job level” means,

- (a) a grade or rank of jobs within a group of jobs that has a rate or range of salary assigned to the grade or rank,
- (b) a group of jobs, if the group of jobs contains no grades or ranks;

“job rate” means the highest rate of compensation for a job level;

“Minister” means the Minister of Labour or such other member of the Executive Council to whom the administration of this Act may be assigned;

“predominantly female group of jobs” means,

- (a) a group of jobs that, on the effective date, has 60 per cent or more of the positions in the group occupied by women,
- (b) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly female group of jobs,
- (c) if Part IV or VI applies, a group of jobs that the employer, with the Commission’s approval, designates as a predominantly female group of jobs,
- (d) a group of jobs that is designated by the regulations made under this Act as a predominantly female group of jobs;

“predominantly male group of jobs” means,

- (a) a group of jobs that, on the effective date, has 70 per cent or more of the positions in the group occupied by men,

- (b) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly male group of jobs,
- (c) if Part IV or VI applies, a group of jobs that the employer, with the Commission's approval, designates as a predominantly male group of jobs,
- (d) a group of jobs that is designated by the regulations made under this Act as a predominantly male group of jobs;

"representative job level in a predominantly female group of jobs" means the job level in a predominantly female group of jobs that has the greatest number of employees.

L.C.B.O.  
and  
L.L.B.  
deemed  
one employer

(2) For the purposes of this Act, the Liquor Licence Board and the Liquor Control Board of Ontario shall be deemed to be one employer and their employees shall be deemed to be jointly employed by them.

Effect of  
designation  
of groups  
of jobs

(3) Where a group of jobs is designated as a predominantly female group of jobs or as a predominantly male group of jobs, the designation, subject to any order or direction of the Commission, is binding upon the employer, the employees of the employer and the bargaining agent, if any, of the employees.

Determi-  
nation  
of  
representative  
job level

(4) Where two or more job levels in a female group of jobs have the same number of employees, the job level with the higher or highest job rate shall be deemed to have the greater or greatest number of employees.

Application

## **2.** This Act applies to,

R.S.O. 1980,  
c. 418

- (a) the Crown in right of Ontario and public servants as defined in the *Public Service Act*;
- (b) The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority and Workers' Compensation Board and their respective employees; and
- (c) bargaining agents representing employees to whom this Act applies.

## PART II

## PAY EQUITY: GENERAL

**3.—**(1) The purpose of pay equity is to redress systemic gender discrimination in compensation for work performed by employees employed in predominantly female groups of jobs in the public service of Ontario.

Purpose

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between the representative job level in a predominantly female group of jobs and a job level in a predominantly male group of jobs in terms of relative pay and in terms of the relative value of the work performed.

Identification of discrimination

**4.** The criterion to be applied in determining value of work for the purpose of this Act shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.

Value determination

**5.—**(1) For the purposes of this Act, pay equity is achieved when the job rate for the representative job level in a predominantly female group of jobs is at least equal to the job rate for a job level in any predominantly male group of jobs where the work performed in the two job levels is of equal or comparable value.

Achievement of pay equity

(2) Where more than one comparison is possible between the representative job level in a predominantly female group of jobs and job levels in predominantly male groups of jobs where the work performed in all job levels is of equal or comparable value, pay equity is achieved when the job rate for the representative job level in the predominantly female group is at least as great as the job rate for the job level in the predominantly male group with the lowest job rate.

Basis of comparison

(3) A job level in a predominantly male group of jobs shall not be used for purposes of comparison if less than 70 per cent of the employees in the job level on the effective date are male.

Idem

(4) For the purposes of this Act, differences in rates of compensation between job levels in predominantly male groups of jobs of equal or comparable value shall be deemed not to reflect gender bias.

Different rates in predominantly male groups

Pay equity  
plans  
required

**6.** Plans to provide for pay equity for predominantly female groups of jobs shall be established and implemented in accordance with this Act.

Contents of  
plans

**7.** A pay equity plan,

- (a) shall provide for the development or selection of a gender-neutral job comparison or evaluation system;
- (b) shall identify all predominantly female groups of jobs and all predominantly male groups of jobs;
- (c) shall provide for the application of the system referred to in clause (a) to positions in the predominantly female groups of jobs and in the predominantly male groups of jobs; and
- (d) shall provide for the adjustment of the rates of compensation in the representative job level in a predominantly female group of jobs, where necessary, to achieve pay equity and shall provide that where such adjustments are required to be made, all job levels in the same predominantly female group of jobs as the representative job level shall receive the same percentage adjustment of their rates of compensation when the plan is fully implemented.

Exclusions  
from plans

**8.—(1)** A position that the employer, acting in good faith, designates as,

- (a) a temporary training position;
- (b) a student position;
- (c) a rehabilitation position;
- (d) a casual position; or
- (e) a position for which there is a temporary labour shortage,

or a position that the Commission designates for the purposes of this section may be excluded in determining the gender predominance of any group of jobs and need not be included in a pay equity plan.

Idem

(2) A position shall not be designated for the purposes of this Act as a casual position if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies for similar full-time work.

**9.** An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity. Reduction of compensation prohibited

**10.—(1)** A pay equity plan and all amendments to it that the Commission directs or orders are binding upon the employer, the employees in the positions to which the pay equity plan applies and the bargaining agent, if any, of the employees. Employer, employees and bargaining agents bound by plan

(2) A pay equity plan prevails over the provisions of all relevant collective agreements and the adjustments to rates of compensation required by the plan, from the date the plan is filed by the employer with the Commission or established by it, shall be deemed to be incorporated into and form part of the relevant collective agreements, if any, and of ensuing collective agreements, if any, entered into during the implementation period and the relevant collective agreements shall be amended accordingly. Plan to prevail over collective agreements

(3) Subsection (2) applies with necessary modifications to amendments to a pay equity plan directed or ordered by the Commission. Idem

**11.—(1)** As soon as a pay equity plan has been filed with the Commission or established by it, the employer shall take all necessary steps, by way of job audits or otherwise, to prepare for implementation of the plan. Implementation of pay equity plans

(2) If, after the filing of a pay equity plan, the Commission directs or orders any amendments to it, the amendments shall be deemed to be incorporated into and form part of the plan. Changes in plans

(3) An employer shall begin making adjustments to rates of compensation under a pay equity plan as soon as possible after the plan is filed with the Commission or established by it and, First adjustments



- (a) if the plan is one to which Part III applies, the first adjustments,
  - (i) shall be made no later than the day eighteen months from the date of filing or establishment of the plan, and
  - (ii) shall be such that compensation payable during the twelve-month period following the first adjustments shall be increased by not less than 1 per cent of the employer's payroll for the bargaining unit to which the plan applies since the date on which bargaining with respect to the plan was required to commence under section 12 or not less than the amount required to achieve pay equity under the plan, whichever is less;
- (b) if the plan is one to which Part IV applies, the first adjustments,
  - (i) shall be made no later than the day eighteen months from the date of filing or establishment of the plan, and
  - (ii) shall be such that compensation payable during the twelve-month period following the first adjustments shall be increased by not less than 1 per cent of the employer's payroll for employees who are not in a bargaining unit since the date on which preparation of the plan was required to commence under section 14 or not less than the amount required to achieve pay equity under the plan, whichever is less;
- (c) if the plan is one to which Part V applies, the first adjustments shall be made no later than the later of,
  - (i) the day twelve months from the date of filing or establishment of the plan, and
  - (ii) the day after the last adjustment required to be made by the employer under all plans to which Part III applies; and
- (d) if the plan is one to which Part VI applies, the first adjustments shall be made no later than the later of,

- (i) the day twelve months from the date of filing or establishment of the plan, and
- (ii) the day after the last adjustment required to be made by the employer under the plan to which Part V applies, or, if no plan is required under Part V, the day after the last adjustment required to be made by the employer under all plans to which Parts III and IV apply.

(4) Where an employer under a pay equity plan to which Part III or IV applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments to rates of compensation made under the relevant plan under subsection (3), shall make further adjustments in rates of compensation until pay equity is achieved under the plan such that in the twelve-month period following the anniversary the compensation payable under the plan shall be increased by at least,

Minimum  
adjustments,  
Parts III  
and IV

- (a) 1 per cent of the employer's payroll for the relevant bargaining unit for the twelve-month period preceding the anniversary if Part III applies to the plan; and
- (b) 1 per cent of the employer's payroll for employees who are not in a bargaining unit for the twelve-month period preceding the anniversary if Part IV applies to the plan,

unless the remaining amount payable in relation to the relevant plan is less than 1 per cent of the relevant payroll, in which case the adjustments shall equal the amount required to achieve pay equity under that plan.

(5) Where pay equity has been achieved under a pay equity plan to which Part III or IV applies but has not been achieved under one or more other plans to which either of those Parts apply, adjustments in rates of compensation for the other plan or plans shall be increased such that the amounts payable by the employer under all plans shall be at least equal to the amount that would have been payable had pay equity not been achieved under any plan.

Idem

(6) Where an employer under a pay equity plan to which Part V or VI applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments to rates of compensation made under the relevant plan under subsection (3), shall make

Minimum  
adjustments,  
Parts V  
and VI



further adjustments in rates of compensation until pay equity is achieved under the plan such that in the twelve-month period following the anniversary the compensation payable under the plan shall be increased by at least 1 per cent of the employer's payroll for all its employees for the twelve-month period preceding the anniversary, unless the remaining amount payable in relation to the relevant plan is less than such 1 per cent, in which case the adjustments shall equal the amount required to achieve pay equity under the relevant plan.

Where time  
extended

(7) Where the Commission extends the time limit for the filing of a pay equity plan or for the making of the first adjustments in rates of compensation under a pay equity plan, retro-active adjustments shall be made in rates of compensation under all pay equity plans of the employer to reflect the compensation that would have been payable had the extension not been granted.

Limitation

(8) Except as provided in subsections (3) and (7), nothing in this Part requires an employer to increase compensation payable under pay equity plans during a twelve-month period in an amount greater than 1 per cent of the employer's payroll for all its employees during the preceding twelve-month period.

Definition

(9) In this section, "payroll" means the total of all compensation payable to the employees of the employer described in the relevant provision.

## PART III

### BARGAINING UNIT PAY EQUITY PLANS

Negotiation  
of plan

**12.—**(1) Notwithstanding any other Act, each employer and each bargaining agent for the employees of the employer shall negotiate in good faith and endeavour to agree on a pay equity plan to provide for pay equity in predominantly female groups of jobs in the bargaining unit represented by the bargaining agent in relation to predominantly male groups of jobs in the bargaining unit.

Idem

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agent.

Idem

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Commission.

**13.—**(1) If the employer and the bargaining agent fail to agree on a pay equity plan as provided in section 12 within ninety days from the effective date, either party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of a plan. Arbitration

(2) Within ten days after receiving a notice under subsection (1), the Minister shall appoint a person to act as a single arbitrator and the arbitrator, within ninety days, shall examine into and decide on all matters that are in dispute in order to conclude a pay equity plan. Single arbitrator

(3) Within ten days of the date of the arbitrator's decision, the employer and the bargaining agent shall prepare and execute a document giving effect to the decision and to any agreement between the employer and the bargaining agent. Giving effect to decision

(4) The document referred to in subsection (3) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the document with the Commission. Idem

(5) If the employer and the bargaining agent fail to comply with subsection (3) within the period referred to in that subsection, the employer shall forthwith notify the arbitrator of the failure. Idem

(6) Nothing in subsection (5) prevents a bargaining agent from notifying the arbitrator of a failure to comply with subsection (3). Idem

(7) If the arbitrator receives notice of a failure to comply with subsection (3), the arbitrator shall prepare a document giving effect to the decision and any agreement between the employer and the bargaining agent, and the arbitrator shall submit the document to the employer and the bargaining agent for execution. Idem

(8) The document referred to in subsection (7) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the plan with the Commission. Idem

(9) If the document referred to in subsection (7) is not executed by both the employer and the bargaining agent within ten days from the date of its submission to them, the document shall constitute a pay equity plan as though it had been signed by both and a copy of the plan shall be filed, forthwith, by the arbitrator with the Commission. Idem

Delay in  
making  
decision

(10) If in the Minister's opinion the arbitrator has failed to enter into or carry out his or her duties so as to enable the arbitrator to render a decision within ninety days from the time of the arbitrator's appointment, the Minister may dismiss the arbitrator and appoint another person as single arbitrator or the Minister may require the Commission to establish the pay equity plan.

Remuneration  
and expenses

(11) Arbitrators shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council, and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

Powers of  
arbitrators

(12) An arbitrator has power,

- (a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath, in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;
- (d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or her, and inspect and view any work or thing therein, and question any person respecting any such thing or any of such differences;
- (e) to authorize any person to do anything that the arbitrator may do under clause (d) and to report on it to the arbitrator.

R.S.O. 1980,  
c. 25 does  
not apply

(13) The *Arbitrations Act* does not apply to arbitrations under this Act.

## PART IV

### NON-BARGAINING UNIT PAY EQUITY PLANS

Preparation  
of plan

**14.—**(1) Notwithstanding any other Act, each employer, within ninety days from the effective date, shall prepare a written plan to provide for pay equity for the predominantly

female groups of jobs that are not in a bargaining unit in relation to predominantly male groups of jobs that are not in a bargaining unit and, forthwith after preparing the plan, the employer shall file a copy of it with the Commission.

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Commission. Idem

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Commission. Idem

## PART V

### COMBINED BARGAINING UNIT PAY EQUITY PLANS

**15.—**(1) Notwithstanding any other Act, where an employer has employees in more than one bargaining unit, as soon as pay equity plans for all the bargaining units to which Part III applies have been filed with the Commission or established by it, the employer and the bargaining agents for the employees of the employer shall negotiate together in good faith and endeavour to agree upon a pay equity plan to provide for pay equity across all of the bargaining units. Negotiation  
of plan

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agents. Idem

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Commission. Idem

(4) If the employer and the bargaining agents fail to agree on a pay equity plan as provided in subsection (1) within six months from the last date on which a plan to which Part III applies was filed with the Commission or established by it, any party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of a plan. Arbitration

(5) Section 13 applies with necessary modifications if a matter is referred to arbitration under subsection (4) except that the period of ninety days referred to in subsections 13 (2) and (10) shall be deemed to be six months. Idem

## PART VI

## COMPREHENSIVE PAY EQUITY PLANS

Preparation  
of plan

**16.**—(1) Notwithstanding any other Act, as soon as the pay equity plans to which Parts III and IV apply have been filed with the Commission or established by it, the employer, within eighteen months from the last date on which a plan is filed with the Commission under Part III or IV or established by it and in consultation with the bargaining agents, if any, for the employees of the employer, shall prepare a written plan to provide for pay equity both across bargaining units and inside and outside the bargaining units and, forthwith after preparing the plan, the employer shall file a copy of it with the Commission.

Idem

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Commission.

Idem

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Commission.

## PART VII

## PAY EQUITY COMMISSION

Commission  
established

**17.**—(1) There is hereby established a commission to be known as the Pay Equity Commission.

Composition  
and  
appointment

(2) The Commission shall be composed of a presiding officer, one or more deputy presiding officers and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Alternate  
presiding  
officer

(3) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

Remuneration  
and expenses

(4) The members of the Commission who are not officers in the public service of Ontario shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.



(5) Where a member of the Commission resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Commission.

Resignation  
of member

(6) In exercising its powers under this Act, the Commission shall, if appropriate, make use of the services and facilities of a ministry, board, commission or agency of the Government of Ontario.

Services of  
ministries,  
boards, etc.

(7) Officers and employees necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* and the Commission, subject to the approval of Management Board of Cabinet, may engage, under contract, the persons, including professionals and experts, that it considers necessary to exercise its powers and to carry out its duties.

Staff and  
other  
assistance  
R.S.O. 1980,  
c. 418

**18.—**(1) The Commission may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that any person seeking a determination of any matter by the Commission shall give written notice, in such form and manner as the Commission specifies, to the persons that the Commission specifies.

Commission  
proceedings

(2) The presiding officer may establish panels of the Commission and it may sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel.

Panels

(3) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Commission.

Quorum

(4) The decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.

Decisions

(5) Notwithstanding subsection (4), the presiding officer, if he or she is of the opinion that it is advisable to do so, may sit alone to hear and determine or may authorize a deputy presiding officer to sit alone and hear and determine any matter or thing and to exercise all of the jurisdiction and powers of the Commission.

Decisions  
of single  
member



Hearings and  
submissions

(6) In exercising powers and carrying out duties conferred on the Commission under clauses 19 (2) (j), (l) and (m), section 20 or Part VIII, the Commission shall hold a hearing and afford the parties an opportunity to make oral and written submissions to the Commission or it may dispense with a hearing if it permits the parties the opportunity to make written submissions as the Commission may direct.

Parties

- (7) The parties to a proceeding before the Commission are,
- (a) the employer;
  - (b) if Part VIII applies, the person or persons making the complaint; and
  - (c) the bargaining agent, if any, for the employees of the employer; or
  - (d) if there is no bargaining agent, the employees of the employer.

Notice

(8) A notice of a proceeding or other matter before the Commission that is required to be given to the employees of an employer shall be deemed to have been sufficiently given if it is prominently posted in each place where the employees work or if it is published in a manner that is likely to bring it to their attention.

Repre-  
sentation

(9) One or more employees may appoint any person or organization to act as their agent before the Commission.

Powers and  
duties

**19.—**(1) The Commission may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act and, without restricting the generality of the foregoing, it may exercise such powers and shall perform such duties as are or may be necessary to permit it to determine that pay equity plans comply with the intent and purpose of this Act and are implemented in accordance with this Act.

Incidental  
powers

(2) Without limiting the generality of subsection (1), the Commission has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath;
- (b) to require the production of such documents, records, reports or things as the Commission considers necessary to permit it to investigate and consider any matter within its jurisdiction;

- (c) to administer oaths;
- (d) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (e) to require an employer to give any notices that the Commission considers necessary to provide notice of proceedings before the Commission or any direction or orders made by it;
- (f) to enter any premises where work is being done or has been done or in which the employer carries on business or where anything is taking place or has taken place concerning any matter in relation to which the Commission has jurisdiction, and inspect and view any work or thing therein, and question any person respecting any such thing or any such matter;
- (g) to monitor the implementation of every pay equity plan and compliance with the Commission's directions and orders and this Act;
- (h) to authorize any person to do anything that the Commission may do under clauses (a) to (g) and to report to the Commission thereon;
- (i) to authorize the presiding officer or a deputy presiding officer to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Commission, or any part of any of them, and to report to the Commission thereon;
- (j) to make such orders as are necessary to ensure that a pay equity plan is implemented and that there is compliance with its directions and orders;
- (k) to recommend to the Lieutenant Governor in Council that a group of jobs be designated as a predominantly female group of jobs or as a predominantly male group of jobs and in making such a recommendation, the Commission shall consider such criteria, including historical trends, as it considers relevant;
- (l) to approve, on the application of an employer, the designation by the employer of a group of jobs as a predominantly female group of jobs or as a predom-

inantly male group of jobs for the purposes of a pay equity plan to which Part IV or VI applies; and

- (m) to extend any time limit mentioned in this Act notwithstanding that the time limit has expired.

Access to  
information

(3) Where, with respect to a particular pay equity plan, the Commission exercises its powers under clause (2) (b), the Commission shall allow reasonable access by any person to the information received by it.

Conditions  
in orders and  
directions

(4) The Commission may impose conditions, including time limits, in respect of its orders and directions.

Research  
and  
education

(5) The Commission may conduct research and produce papers related to pay equity and related subjects and conduct public education programs related to pay equity and related subjects.

Review and  
approval of  
pay equity  
plans

**20.**—(1) The Commission shall review every pay equity plan filed with it, and,

- (a) if the Commission decides that the plan complies with the intent and purposes of this Act, it shall advise the parties of its decision; or
- (b) if the Commission decides that the plan does not comply with the intent and purposes of this Act, it may direct such amendments as are necessary to achieve such compliance.

Idem

(2) If a direction is given under clause (1) (b), the Commission shall allow the employer and, if the plan is one to which Part III or V applies, the bargaining agent thirty days to make such amendments to the pay equity plan as are necessary to give effect to the direction, and the amendments shall be filed by the employer with the Commission forthwith upon the amendments being made.

Idem

(3) If the Commission decides that a pay equity plan together with the amendments filed under subsection (2) complies with the intent and purposes of this Act, it shall advise the parties of its decision.

Imposed  
plans

(4) If the employer fails to file a pay equity plan as required by Part IV or VI or fails to file an amended pay equity plan as required by subsection (2) or the Minister refers a matter to it under section 13 or the Commission is of the opinion that an amended pay equity plan does not comply with the intent and purposes of this Act, the Commission may

by order establish or amend a pay equity plan, as may be appropriate.

**21.**—(1) A copy of an order or direction of the Commission certified by a member of the Commission may be filed in the office of the Registrar of the Supreme Court by the Commission.

Enforcement  
of orders and  
directions

(2) When a copy has been filed under subsection (1), the order or direction may be enforced by an application for such order as the court may consider just.

Idem

(3) An application under subsection (2) may be made by the Commission, or by any person who could have been a party to the proceeding in which the order or direction was made.

Idem

**22.**—(1) The Commission has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Commission thereon is final and conclusive for all purposes.

Exclusive  
jurisdiction  
of  
Commission

(2) The Commission may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke it.

Recon-  
sideration  
of decisions,  
etc.

**23.** Except with the consent of the Commission, no member of the Commission, nor any of its officers or employees nor any other person whose services have been contracted for by the Commission, shall be required to give testimony in any civil proceeding or in any proceeding before the Commission or any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Testimony  
in civil  
proceedings

**24.** The Commission shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session.

Annual  
report

## PART VIII

### COMPLAINTS

**25.**—(1) After the filing of a pay equity plan with the Commission, any employee or employees bound by the plan, or their bargaining agent, if any, may file a complaint with the Commission, complaining that,

Complaints  
during  
implemen-  
tation  
of plans

- (a) the job comparison or evaluation system contained in the plan is not gender-neutral or is inappropriate, or both;
- (b) the predominantly female groups of jobs and the predominantly male groups or any of them have not been properly identified or are inappropriate, or both;
- (c) the method of applying the job comparison or evaluation system is inappropriate;
- (d) the job comparison or evaluation system is not being properly applied; or
- (e) adjustments to compensation are not being made as required.

**Time limits**

(2) No complaints may be filed with respect to a matter described in clause (1) (a), (b) or (c) more than ninety days after the filing with the Commission or the establishment by it of the pay equity plan to which the complaint relates.

**Idem**

(3) No complaint may be filed with respect to a matter described in clause (1) (d) or (e) until the first adjustments in compensation are required to be made under the pay equity plan to which the complaint relates and no such complaint may be made more than,

- (a) six months after the first adjustments are required to be made if clause (1) (d) applies; or
- (b) one year after the last adjustments should have been made had the pay equity plan been implemented as required if clause (1) (e) applies.

**Complaints after implementation of plans**

**26.** Following the completion of the compensation adjustments pursuant to all pay equity plans, an employer shall not engage in gender-biased compensation practices and any employee or employees of the employer may file a complaint with the Commission respecting any gender-biased compensation practices that affect pay equity and that are implemented by the employer after the completion of the compensation adjustments.

**Duty of Commission**

**27.—**(1) The Commission shall inquire into a complaint under section 25 or 26 and investigate and determine its subject-matter and the Commission may order an employer or bargaining agent to take such action or refrain from such action as in the opinion of the Commission is required.



(2) The Commission shall make every effort reasonable in the circumstances to determine a complaint under clause 25 (1) (a), (b), (c) or (e) within three months of its filing and a complaint under clause 25 (1) (d) within six months of its filing. Idem

## PART IX

### MISCELLANEOUS

**28.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining any word or expression not expressly defined in this Act;
- (b) further defining the expression “compensation” or prescribing amounts or benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;
- (c) further defining the expression “group of jobs” or prescribing positions that shall be deemed to form a group of jobs for the purposes of this Act;
- (d) prescribing criteria for determining whether a temporary labour shortage exists;
- (e) providing for the requisite features of a gender-neutral job comparison or evaluation system;
- (f) designating, on the recommendation of the Commission, any group of jobs as a predominantly female group of jobs or as a predominantly male group of jobs.

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive to a day not earlier than the effective date. Retroactive regulations

**29.** The moneys required for the purposes of this Act shall, until the 31st day of March, 1987, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

**30.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**31.** The short title of this Act is the *Public Service Pay Equity Act, 1987*. Short title









# Bill 106

## An Act to amend the Occupational Health and Safety Act

The Hon. W. Wrye  
*Minister of Labour*



*1st Reading*      June 29th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

**SECTION 1.** It is proposed that a Preamble be added to the Act.

**SECTION 2.—Subsection 1.** The definition of “construction” is amended to clarify that works and undertakings underground in a mine are governed by the mining regulations and not the construction regulations.

**Subsection 2.** These definitions relate to the Office of Investigations, established by the proposed section 3 of the Act.

**Subsection 3.** “Mining developments” are taken out of the definition of “project” in order to clarify that mining developments are governed by the mining regulations and not the construction regulations.

**Subsection 4.** Under the amendment, a ship under repair will be treated as a project and will be subject to the provisions of the Act and the regulations that relate to construction projects.

**SECTION 3.** The Office of Investigations is established for the purposes described in the explanatory note for sections 12 and 13.

**SECTION 4.—Subsections 1, 2 and 3.** The Act now provides that where the number of workers at a project regularly exceeds twenty, the constructor shall cause the workers to select at least one health and safety representative. The amendment to subsection 7 (1) of the Act will require the constructor to do that when the number regularly exceeds ten. The proposed subsection 7 (1a) will require the selection of a greater number of representatives when the regulations so provide. The proposed subsection 7 (1b) will require the selection of at least one health and safety representative in a work place that is not a project where there are more than five regular workers unless otherwise provided in the regulations.

**Subsection 4.** The Act now requires that a health and safety representative inspect the work place not more than once a month. The amendment will require the representative to inspect at least part of the work place at least once a month such that the whole of the area for which the representative is responsible is inspected at least once in each twelve-month period. The present power of the Director to direct inspections at a different frequency is retained.

**Subsection 5.** The representative’s powers are expanded to include the right to obtain information from the employer concerning testing, to be consulted concerning such tests and to be present at their commencement. The representative is also given the power to obtain information from a constructor or an employer concerning the identification of potential or existing hazards and health and safety experience and practice in other industries.

**Subsection 6.** This amendment ensures that the powers to be given to a representative under subsection 4 (5) of the Bill will apply as well to a representative selected under the provisions of a collective agreement.

**SECTION 5.—Subsection 1.** Clause 8 (1) (b) of the Act now exempts from the requirement that a joint health and safety committee be established in certain work places those workers who work,

- (a) in that part or those parts of a building used for office purposes;
- (b) in a shop where goods or services are sold or offered for sale to the public, except any part used as a factory;
- (c) in a building used for multiple residential accommodation;

- (d) in a library, museum or art gallery;
- (e) in a restaurant, hotel, motel or premises for which a licence or permit has been issued under the *Liquor Licence Act* except that part used as a kitchen or laundry;
- (f) in a theatre or place of public entertainment; or
- (g) in premises occupied and used by a fraternal or social organization or a private club.

The Bill will remove these exemptions and authorize the Lieutenant Governor in Council to make regulations exempting classes of employers or work places.

**Subsection 2.** The minimum size of a committee is changed from two to four persons if there are more than twenty workers in the work place. It is clarified that worker representatives are required to be from the work place and it is required that representatives of the employer be from the work place if there are any eligible persons working there. Committees are required to have co-chairmen unless the committee decides otherwise. One will represent workers and the other will represent the employer. The Minister is authorized to issue guidelines for the composition, practice and procedure of committees.

**Subsection 3.** The committee's powers are expanded to include the right to obtain information from the employer concerning testing, to be consulted concerning such tests and to be present at their commencement.

**Subsection 4.** The Act now requires that a member of the committee inspect the work place not more than once a month. The amendment requires at least part of the work place to be inspected at least once a month such that the whole work place is inspected at least once in each twelve-month period. The Director may direct inspections at a different frequency.

The proposed subsection (8d) clarifies that the same member of the committee need not do all inspections under the previous subsection.

## **SECTION 6. Housekeeping.**

**SECTIONS 7 and 8.** Added to the duties imposed on an employer are the requirements that the employer,

- (a) prepare a written policy that addresses the occupational health and safety issues at the work place and develop and maintain a program for the implementation of it;
- (b) provide a committee or health and safety representative with the results of reports prepared under subsection 28 (1) of the Act;
- (c) respond in thirty days to any recommendations of a committee or health and safety representative, with a timetable for implementation if the employer agrees with the recommendation and the reasons for disagreeing otherwise; and
- (d) carry out prescribed occupational health and safety training programs.

**SECTION 9.** The proposed section 18a of the Act. It is proposed that owners of property where construction work is carried out be required to provide to a prospective constructor as part of the tendering process, and, in any event, before entering a binding contract with the constructor, a list of all designated substances that are present on the project site. Similarly, constructors will be required to ensure that prospective contractors and subcontractors are provided with such a list as part of the tendering process, and, in any event before entering a binding contract. Owners and constructors who fail to com-



ply with this provision will be liable to the person to whom the information should have been provided for any loss or damages.

The proposed section 19a of the Act. Directors and officers of corporations will be required to take all reasonable care to ensure that the Act and regulations and orders under them are complied with.

The proposed section 19b of the Act. Employers will be required to reimburse workers for all reasonable costs the worker incurs undergoing medical examinations or tests in compliance with the Act and regulations and, where such examinations or tests occur during the working day, to pay the worker his or her regular wage.

The proposed section 19c of the Act. This requires physicians to comply with the Act and the regulations.

The proposed section 19d of the Act. This provides for the confidentiality of a worker's health records.

The proposed section 19e of the Act. This provides that certain sections of the Act apply to self-employed persons as if they were employers.

#### **SECTION 10. Housekeeping.**

**SECTION 11.—Subsections 1, 2, 4, 5 and 6.** The worker's right to refuse to work is expanded to include the situation where the worker has reason to believe that an activity he or she is to engage in is likely to endanger someone or is in contravention of the Act.

**Subsections 3 and 7.** The Act now provides that pending the final determination of the validity of a refusal to work, no other worker shall be assigned to do that work without first being given notice of the refusal. The amendments will prohibit replacement during investigations except in the specific circumstances set out in the proposed subsections 23 (5b) and (11a). The employer will be required to prepare a written report after the initial investigation and to provide a copy of it to the worker and the committee or health and safety representative, if any, and to retain the report for five years.

**SECTIONS 12 and 13.** Under section 24 of the Act where a worker believes that an employer has disciplined or dismissed him or her as a reprisal against the worker's acting in compliance with the Act or regulations or because the worker has sought enforcement of the Act or regulations, the worker can seek binding arbitration under the collective agreement or complain to the Labour Relations Board if the worker is a member of a union and complain to the Labour Relations Board otherwise. The Board is then authorized to have an officer investigate and then, if it chooses, inquire into the matter, and make a number of determinations under the *Labour Relations Act*. Section 13 provides an additional remedy for workers; a complaint to the Office of Investigations, established under section 3 of this Bill. It provides a scheme whereby a Ministry investigator may investigate and attempt to settle the complaint. If the complaint cannot be settled, it may be referred to the Ontario Labour Relations Board.

**SECTION 14.** This provides that an employer must give notice to a Director and to the committee, representative and trade union, if any, when a claim in respect of an occupational illness has been filed with the Workers' Compensation Board.

**SECTION 15.—Subsection 1.** See note under section 11, subsections (1), (2), (4), (5) and (6).

**Subsection 2.** This expands the inspector's powers to allow an inspector to require an employer to cause tests to be conducted at the employer's expense and to provide reports of them.

**Subsection 3.** This authorizes inspectors to require production of materials concerning occupational health and safety programs, to inspect, examine and copy them and to attend such programs.

**SECTION 16.—Subsection 1.** This authorizes an inspector to provide in an order for compliance that an employer prepare and submit a compliance plan detailing how and when the employer proposes to comply.

**Subsection 2.** See note under section 11, subsections (1), (2), (4), (5) and (6).

**Subsections 3 and 4.** A stop work order now remains in effect until complied with or until the inspector has withdrawn or cancelled the order. The amendment to clause 29 (4) (b) of the Act would provide that a stop work order remains in effect until the inspector has withdrawn or cancelled it following an inspection. However, if an inspector cannot make an inspection within twenty-four hours, an employer will be allowed to resume work if a committee member representing workers or a health and safety representative advises the inspector that the employer has complied with the order.

**SECTION 17.** The proposed section 30a provides that an employer shall submit to the Ministry written notice within three days of the time when the employer believes compliance has been achieved. The notice is to be accompanied by a statement of a committee member or a health and safety representative agreeing or disagreeing with the employer's view or a statement that the member or representative declines to make such a statement. The notice of compliance is to be posted in a conspicuous place for fourteen days following its submission. The section also provides that the final determination of whether compliance has been achieved is left to the inspector.

**SECTION 18.** Employers are required to pay workers not less than seventy-five per cent of the workers' regular or premium wages during any period that there is no work for the worker because of a refusal or a stop work order. Proclamation of this provision for construction projects is delayed until a date to be named by the Lieutenant Governor.

**SECTION 19.** The maximum fine for a corporation convicted of an offence under the Act is increased from \$25,000 to \$250,000.

**SECTION 20.** The Attorney General or an agent for the Attorney General is given the right to require that the trials of an offence under this Act be presided over by a provincial judge rather than a justice of the peace.

**SECTION 21.** The Lieutenant Governor in Council is authorized to make regulations respecting physicians and their duties with respect to medical examinations and medical surveillance programs required by the Act or the regulations. Other regulation making powers arising out of the previous provisions are also included in this section.



Bill 106

1987

## An Act to amend the Occupational Health and Safety Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Preamble:**

WHEREAS the dignity and worth of every person is paramount; Preamble

AND WHEREAS a fundamental expression of this dignity and worth is the protection of the health and safety of workers;

AND WHEREAS the participation and involvement of workers and employers is essential to enhance this protection;

. . . . .

**2.—(1) Paragraph 3 of section 1 of the said Act is amended by adding at the end thereof “but does not include any work or undertaking underground in a mine”.**

**(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 44, is further amended by adding thereto the following paragraphs:**

14a. “investigator” means an investigator in the Office of Investigations;

. . . . .

15a. “Manager” means the Manager of the Office of Investigations.

**(3) Subparagraph ii of paragraph 23 of the said section 1 is repealed.**

**(4) The said section 1 is further amended by adding thereto the following subsection:**

Ship repair      (2) For the purposes of this Act and the regulations, a ship under repair shall be deemed to be a project.

**3. The said Act is amended by adding thereto the following section:**

Office of Investigations      **6a.**—(1) There shall be an office of the Ministry known as the Office of Investigations.

Manager      (2) The Deputy Minister shall appoint an officer of the Ministry to be the Manager of the Office of Investigations for the purposes of this Act.

Acting Manager      (3) Where the Manager is absent or unable to act or where the office is vacant, the powers and duties of the Manager shall be exercised and performed by an employee of the Ministry designated by the Deputy Minister.

Investigators      (4) Such persons as are considered necessary for the purposes of this Act and the regulations may be appointed as investigators.

Idem      (5) The Manager may exercise the powers of an investigator.

**4.—(1) Subsection 7 (1) of the said Act is amended by striking out “Where the number of workers at a project regularly exceeds twenty” in the first and second lines and inserting in lieu thereof “Where no committee is required to be or is ordered to be established under section 8 and the number of workers at a project regularly exceeds ten”.**

**(2) Section 7 of the said Act is amended by adding thereto the following subsections:**

Idem      (1a) Under the prescribed circumstances, a constructor shall cause the workers to select a prescribed number of health and safety representatives in addition to the one required by subsection (1).

Idem      (1b) Where no committee is required to be or is ordered to be established under section 8 in respect of a work place that is not a project and there are more than five workers regularly employed at the work place, the employer shall cause those



workers to select at least one health and safety representative from among the workers employed at the work place who do not exercise managerial functions unless the employer is in a class of employers prescribed by the regulations as being exempt from this subsection.

**(3) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:**

(2) For any work place not otherwise required to have a committee or a health and safety representative, the Minister may, by order in writing, require a constructor or an employer to cause the selection of one or more health and safety representatives for a work place or any part or parts thereof from among the workers employed at the work place or in the part or parts thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representative or representatives.

Order  
appointing  
health and  
safety re-  
presentatives

**(4) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:**

(6) A health and safety representative may inspect the physical condition of any part of the work place for which the health and safety representative was appointed at any time and shall inspect at least part of the part or parts of the work place for which the health and safety representative was appointed in each month such that in any twelve-month period all of the part or parts for which the health and safety representative was appointed are inspected at least once.

Inspection by  
health and  
safety  
representative

(6a) Notwithstanding subsection (6), the Director may direct that inspections by a health and safety representative be made at such intervals as the Director may direct so long as all of the part or parts of the work place for which the health and safety representative was appointed are inspected at least once in each twelve-month period.

Idem

(6b) The employer and the workers shall provide a health and safety representative with such information and assistance as the health and safety representative may require for the purpose of carrying out an inspection of the work place.

Idem

**(5) Section 7 of the said Act is further amended by adding thereto the following subsection:**

(7a) A health and safety representative has the power,

Idem

(a) to obtain information from the constructor or employer concerning the conducting or taking of



tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place for the purpose of occupational health and safety and to be consulted concerning and be present at the commencement of any such tests conducted in or about the work place; and

- (b) to obtain information from the constructor or employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

**(6) Subsection 7 (10) of the said Act is amended by inserting after “(7)” in the eighth line “(7a)”.**

**5.—(1) Clause 8 (1) (b) of the said Act is repealed and the following substituted therefor:**

- (b) to an employer or work place or a class of employers or work places designated by the regulations.

**(2) Subsection 8 (5) of the said Act is repealed and the following substituted therefor:**

Composition of committee (5) Subject to subsection (5a), a committee shall consist of at least four persons or such greater number as is prescribed.

Idem (5a) Where a committee is required by the regulations at a work place at which less than twenty workers are regularly employed, the committee shall consist of at least two persons.

Idem (5b) At least half of the committee members shall be workers employed at the work place who do not exercise managerial functions.

Selection of members (5c) The members of a committee who represent workers shall be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Idem (5d) The employer shall select the remaining members of the committee from persons who exercise managerial func-

tions for the employer and where there are such persons at the work place, the employer shall select the remaining members from among those persons.

(5e) Unless the committee otherwise determines, two of the members of a committee shall co-chair the committee, and one of them shall be selected by the members who represent workers and the other shall be selected by the members who exercise managerial functions. Committee to be co-chaired

(5f) The Minister may issue guidelines for the use of committees in determining their composition, practice and procedure. Guidelines for committee

**(3) Subsection 8 (6) of the said Act is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:**

- (e) obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place for the purposes of occupational health and safety and to be consulted concerning and to select a member of the committee representing workers to be present at the commencement of any such tests conducted in or about the work place.

**(4) Subsection 8 (8) of the said Act is repealed and the following substituted therefor:**

(8) The members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the work place. Inspections

(8a) A member designated under subsection (8) may inspect the physical condition of any part of the work place at any time and shall inspect at least part of it in each month such that in each twelve-month period all of the work place is inspected. Idem

(8b) Notwithstanding subsection (8a), the Director may direct that inspections by a member designated under subsection (8) be made at such intervals as the Director may direct so long as all of the work place is inspected at least once in each twelve-month period. Idem

(8c) The employer and the workers shall provide a member designated under subsection (8) with such information and Idem

assistance as the member may require for the purpose of carrying out an inspection of the work place.

Idem

(8d) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

**6. The heading following “Part III” of the said Act is repealed and the following substituted therefor:**

DUTIES OF EMPLOYERS AND  
OTHER PERSONS

**7.—(1) Subsection 14 (2) of the said Act is amended by striking out “and” at the end of clause (g) and by adding thereto the following clauses:**

- (i) prepare and review at least annually a written occupational health and safety policy and develop and maintain a program for the implementation of that policy;
- (j) provide to the committee or to a health and safety representative the results of any report prepared under subsection 28 (1) that is in the employer’s possession and where that report is in writing, a copy of it; and
- (k) respond in writing to any recommendations of a committee or a health and safety representative within thirty days after receiving them.

**(2) Section 14 of the said Act is amended by adding thereto the following subsection:**

Response to  
committee

(4) A response of an employer under clause (2) (k) shall contain a timetable for implementation of the recommendation where the employer agrees with it or the reasons for disagreeing with the recommendation where the employer disagrees with it.

**8. Subsection 15 (1) of the said Act is amended by striking out “and” at the end of clause (h), by adding “and” at the end of clause (i) and by adding thereto the following clause:**

- (j) carry out such occupational health and safety training programs as may be prescribed.

**9. The said Act is further amended by adding thereto the following sections:**

**18a.**—(1) Before commencing a project, the owner shall determine whether any designated substances are present at the project site and shall prepare a list of all designated substances that are present at the site.

Duty of  
project  
owners

(2) Where any work on a project is tendered, the person issuing the tenders shall include, as part of the tendering information, a copy of the list referred to in subsection (1).

Tenders

(3) An owner shall ensure that a prospective constructor of a project on the owner's property has received a copy of the list referred to in subsection (1) before entering a binding contract with the constructor.

Idem

(4) The constructor for a project shall ensure that each prospective contractor and subcontractor for the project has received a copy of the list referred to in subsection (1) before the prospective contractor or subcontractor enters a binding contract for the supply of work on the project.

Duty of  
constructors

(5) An owner who fails to comply with this section is liable to the constructor and every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the project of a designated substance that the owner ought reasonably to have known of but was not on the list prepared under subsection (1).

Liability

(6) A constructor who fails to comply with this section is liable to every contractor and subcontractor who suffers any loss or damages as the result of the subsequent discovery on the project of a designated substance that was on the list prepared under subsection (1).

Idem

**19a.** Every director and every officer of a corporation has a duty to take all reasonable care to ensure that the corporation complies with,

Duty of  
directors and  
officers

- (a) this Act and the regulations;
- (b) orders and requirements of inspectors and Directors; and
- (c) orders of the Minister.

**19b.** An employer shall reimburse a worker for all reasonable costs, including travel costs, that the worker incurs in complying with a regulation or Director's order requiring the worker to undergo medical examinations or tests and the time

Duty of  
employers to  
pay costs



so spent during the worker's regular working day shall be deemed to be work time for which the worker shall be paid by the employer at the worker's regular or premium rate as may be proper.

Duty of  
physicians

**19c.** A physician shall comply with this Act and the regulations.

Health  
records  
R.S.O. 1980,  
c. 196

**19d.**—(1) The provisions of the *Health Disciplines Act* and the regulations under it concerning confidentiality of medical records apply with respect to a worker's health records to any duly qualified medical practitioner, nurse or other health professional acting under the authority of this Act and to any other person who has access to a worker's health records as if that person were subject to the confidentiality provisions of the *Health Disciplines Act*.

Idem

(2) No employer shall seek to gain access to any worker's health record concerning a worker without the worker's written consent.

Idem

(3) Subsection (2) does not apply so as to prevent access to a worker's health record by an employer, where, in the opinion of a court or other tribunal, the record is relevant to a proceeding before the court or tribunal.

Self-  
employed  
persons

**19e.** Subsection 14 (1), clauses 15 (1) (c), (e), (f) and (g), subsection 20 (1) and sections 21, 25, 26, 28, 29, 29a, 31, 32, 33, 37, 38, 39 and 40, and the regulations in relation thereto, apply with necessary modifications to a self-employed person as if that person were an employer.

**10.**—(1) Subsection 21 (2) of the said Act is amended by striking out "or combination of such agents" in the third line and by striking out "or combination of agents" in the tenth line.

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

Interpretation

(3) For the purpose of this section, a biological or chemical agent is not new if, before a person manufactures, distributes or supplies the agent, it was used in a work place other than the person's work place or it is included in an inventory compiled or adopted by the Minister.

**11.**—(1) Clause 23 (3) (a) of the said Act is amended by inserting after "operate" in the second line "or any work activity he is to engage in".

(2) Clause 23 (3) (c) of the said Act is amended by inserting after “operate” in the second line “or any work activity he is to engage in”.

(3) Section 23 of the said Act is amended by adding thereto the following subsections:

(5a) Until the investigation is completed, no worker shall be assigned to use or operate the equipment, machine, device or thing, to engage in the work activity or to work in the work place or the part thereof that is being investigated.

Other  
workers not  
to be  
assigned

(5b) Notwithstanding subsection (5a), a worker may be assigned to use or operate the equipment, machine, device or thing, to engage in the work activity or to work in the work place or the part thereof that is being investigated if the worker to be assigned consents and,

Exception

(a) it is necessary for the purpose of carrying out the investigation; or

(b) the failure to assign a worker would be likely to place the health or safety of any person in imminent jeopardy.

(5c) The employer forthwith after the investigation shall prepare a written report of the investigation and its results and provide copies of it to,

Report of  
investigation

(a) the worker;

(b) a committee member who represents workers, if any; and

(c) a health and safety representative, if any.

(5d) The employer shall retain a report prepared under subsection (5c) for five years.

Idem

(4) Clause 23 (6) (a) of the said Act is amended by striking out “or thing” in the first line and inserting in lieu thereof “thing or work activity”.

(5) Clause 23 (6) (c) of the said Act is amended by inserting after “operate” in the second line “any work activity he is to engage in”.

(6) Subsection 23 (8) of the said Act is amended by inserting after “thing” in the third line “work activity”.



**(7) Subsection 23 (11) of the said Act is repealed and the following substituted therefor:**

Other  
workers not  
to be  
assigned

(11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing, to engage in the work activity or to work in the work place or the part thereof that is being investigated.

Exception

(11a) Notwithstanding subsection (11), a worker may be assigned to use or operate the equipment, machine, device or thing, to engage in the work activity or to work in the work place or the part thereof that is being investigated if the worker to be assigned consents and,

- (a) it is necessary for the purpose of carrying out the investigation;
- (b) the failure to assign a worker would be likely to place the health or safety of any person in imminent jeopardy; or
- (c) where a person mentioned in clause (4) (a), (b) or (c) participated in the initial investigation, the person agrees with the employer or supervisor that the assignment is not likely to endanger the worker to be assigned.

Duty to  
advise  
workers

(11b) The employer shall ensure that a worker to be assigned as permitted by subsection (5b) or (11a) is advised of the refusal by another worker and the reasons therefor before the worker accepts the assignment.

**12.—(1) Subsection 24 (3) of the said Act is amended by inserting after “(2)” in the second line “or complaint referred to it under subsection 24a (6)”.**

**(2) Subsection 24 (4) of the said Act is amended by striking out “filed under subsection (2)” in the second line and inserting in lieu thereof “referred to in subsection (3)”.**

**(3) Subsection 24 (5) of the said Act is amended by striking out “by the Ontario Labour Relations Board” in the first line and by inserting after “subsection (2)” in the second line “or subsection 24a (1)”.**

**(4) Subsection 24 (7) of the said Act is amended by striking out “filed under subsection (2)” in the second line and inserting in lieu thereof “referred to in subsection (3)”.**

(5) Subsection 24 (8) of the said Act is amended by inserting after “(2)” in the first line “or subsection 24a (1)”.

**13.** The said Act is further amended by adding thereto the following section:

**24a.**—(1) Notwithstanding subsection 24 (2), where a worker complains that an employer or person acting on behalf of an employer has contravened subsection 24 (1), the worker may elect to file a complaint with the Office of Investigations rather than with the Ontario Labour Relations Board.

Complaint  
of non-  
unionized  
worker

(2) The Manager may authorize an investigator to inquire into any complaint filed under subsection (1).

Investigator  
to inquire

(3) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Duties

(4) An investigator, for the purpose of carrying out his or her duties,

Powers of  
investigation

- (a) may enter any work place at any reasonable time without notice or warrant;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them; and
- (d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the person's right to have counsel or some other representative present during the examination.

(5) The investigator shall report the results of his or her inquiry and endeavours to the Manager.

Report

(6) Where an investigator is unable to effect a settlement of the matter complained of or where the Manager in his or her discretion considers it advisable to dispense with an inquiry by an investigator, the Manager may refer the complaint to the Ontario Labour Relations Board, in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.

Referral to  
Ontario  
Labour  
Relations  
Board

Idem

(7) The Ontario Labour Relations Board shall appoint a date for and commence a hearing into a matter referred to it under subsection (6) within twenty-one days of the receipt of the referral.

**14. Subsections 26 (2) and (3) of the said Act are repealed and the following substituted therefor:**

Notice of  
occupational  
illness

(2) Where an employer is advised by a worker or by a person on behalf of the worker that the worker has an occupational illness or that a claim in respect of an occupational illness has been filed with the Workers' Compensation Board by or on behalf of the worker, the employer shall give notice in writing, within four days of being so advised, to a Director and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed.

Idem

(3) Subsection (2) applies with all necessary modifications where an employer is advised by a former worker of the employer or a person on behalf of the worker, that the worker has or had an occupational illness or that a claim in respect of an occupational illness has been filed with the Workers' Compensation Board by or on behalf of the worker.

**15.—(1) Clause 28 (1) (e) of the said Act is amended by striking out “or” in the second line and by inserting after “agent” in the third line “or work activity”.**

**(2) Subsection 28 (1) of the said Act is amended by adding thereto the following clause:**

(ea) require in writing an employer to cause any tests described in clause (e) to be conducted or taken, at the expense of the employer, by a person possessing such special expert or professional knowledge or qualifications as are specified by the inspector and to provide, at the expense of the employer, a report or assessment to be made by that person.

**(3) The said subsection 28 (1) is further amended by striking out “and” at the end of clause (k), by adding “and” at the end of clause (l) and by adding thereto the following clause:**

(m) require the production of any materials concerning the content, frequency and manner of instruction of any occupational health and safety training program, inspect, examine and copy the same and attend any such program.

**16.—(1) Section 29 of the said Act is amended by adding thereto the following subsection:**

(3a) An order made under subsection (1) may require an employer to submit a compliance plan to the Ministry specifying what the employer intends to do to comply with the order and when the employer intends to achieve compliance and the compliance plan shall be prepared in the manner and include such items as are required by the order.

Compliance  
plan

(2) Clause 29 (4) (a) of the said Act is amended by inserting after “used” in the third line “or any work activity shall not be engaged in”.

(3) Clause 29 (4) (b) of the said Act is repealed and the following substituted therefor:

- (b) order that work at the work place as indicated in the order shall stop until the order to stop work is withdrawn or cancelled by an inspector after an inspection.

(4) Section 29 of the said Act is further amended by adding thereto the following subsection:

(4a) Notwithstanding clause (4) (b), where an inspector is unable to inspect a work place within twenty-four hours of the employer giving notice to a Director of compliance with an order made under subsection (4), the employer may resume work pending an inspection and decision by an inspector on compliance with the order, if, before the resumption of work, a committee member representing workers or the health and safety representative, if any, advises the inspector that in his or her opinion the order has been complied with.

Resumption  
of work  
pending  
inspection

**17. The said Act is further amended by adding thereto the following section:**

**30a.—(1)** Within three days after the employer believes that compliance with an order under section 29 has been achieved, the employer shall submit to the Ministry a notice of compliance.

Notice of  
compliance

(2) The notice shall be signed by the employer and shall be accompanied by,

Idem

- (a) a statement of agreement or disagreement with the contents of the notice, signed by a member of the committee representing workers or by a health and safety representative; or



- (b) a statement that the member or representative has declined to sign the statement referred to in clause (a).

Idem

(3) The employer shall post the notice for a period of fourteen days following its submission to the Ministry in a conspicuous place or places in the work place where it is most likely to come to the attention of the workers.

Compliance achieved

(4) Notwithstanding the submission of a notice of compliance, an employer achieves compliance with an order under section 29 when an inspector determines that compliance has been achieved.

**18. The said Act is further amended by adding thereto the following section:**

Worker's right to be paid

**31a.**—(1) Where there is no work for a worker because of a refusal to work under section 23 or an order under subsection 29 (4), the employer shall pay to the worker not less than 75 per cent of the worker's regular or premium rate, as may be proper, for the period of time for which there is no work.

Exception

(2) Subsection (1) does not apply to workers at a project until a day to be named by proclamation of the Lieutenant Governor.

**19. Section 37 of the said Act is amended by adding thereto the following subsection:**

Idem

(1a) Where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is \$250,000 and not as provided therein.

**20. Section 39 of the said Act is amended by adding thereto the following subsection:**

Provincial judge required

(2) The Attorney General or an agent for the Attorney General may by notice to the clerk of the court having jurisdiction in respect of an offence under this Act require that a provincial judge preside over the proceeding.

**21. Subsection 41 (2) of the said Act is amended by adding thereto the following paragraphs:**

- 8a. prescribing circumstances under which a constructor shall cause the workers to select more than one health and safety representative and prescribing the number to be selected;

8b. prescribing classes of work places for which and circumstances under which a committee shall consist of more than four persons and in each case prescribing the number of persons;

- . . . .

21a. prescribing occupational health and safety training programs that employers shall provide;

. . . . .

22a. requiring the appointment of a physician to act as co-ordinating physician with respect to any medical surveillance program of an employer;

22b. prescribing the duties of physicians with respect to medical examination and medical surveillance programs required by this Act or the regulations.

**22.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**23.** The short title of this Act is the *Occupational Health and Safety Amendment Act, 1987*. Short title









# Bill 107

## An Act to amend the Beds of Navigable Waters Act

Mr. Haggerty



*1st Reading*      June 29th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTE

The Bill would establish the high water mark as the boundary of property described in a Crown grant bounded by navigable water, to provide a uniform interpretation in such cases.

# Bill 107

1987

## An Act to amend the Beds of Navigable Waters Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** The *Beds of Navigable Waters Act*, being chapter 40 of the Revised Statutes of Ontario, 1980, is amended by renumbering section 1 as section 1a and by adding thereto the following section:

**1.** In this Act,

Definitions

“bed”, where used with reference to a navigable body of water, includes all land and land under water that lie below the high water mark;

“high water mark” means the level at which the water in a navigable body of water has stood for a sufficient period to leave a watermark along the bank of the navigable body of water.

**(2)** Section 1a of the said Act, as renumbered by subsection (1), is amended by adding thereto the following subsections:

**(2)** Where in any patent, conveyance or deed from the Crown made heretofore or hereafter the boundary of land is described as a navigable body of water or the edge, bank, beach, shore, shoreline or high water mark thereof or in any other manner with reference to the navigable body of water, the boundary shall be deemed always to have been the high water mark of the navigable body of water.

Where  
boundary  
body of  
navigable  
water

**(3)** The Minister of Natural Resources may, upon the recommendation of the Surveyor General, fix the high water mark of any navigable body of water or any part thereof, and the Minister’s decision shall be final and conclusive.

Minister may  
fix high  
water mark

**2.** Section 2 of the said Act is amended by striking out “Section 1” in the first line and inserting in lieu thereof “Section 1a”.



Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is the *Beds of Navigable Waters Amendment Act, 1987*.

# Bill 108

## **An Act respecting Agricultural and Horticultural Organizations**

The Hon. J. Riddell

*Minister of Agriculture and Food*



---

*1st Reading*      June 29th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

### EXPLANATORY NOTE

The Bill revises and replaces the *Agricultural Associations Act*, the *Agricultural Societies Act* and the *Horticultural Societies Act*. Obsolete provisions have been removed and the administrative provisions standardized for all three types of organizations.

The amount or the formula for determining the amount of the grants to be paid are to be established by regulation.

Bill 108

1987

## An Act respecting Agricultural and Horticultural Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### GENERAL

#### 1. In this Act,

Definitions

“board” means the board of directors of an organization;

“Director” means the person appointed as Director under section 4;

“Minister” means the Minister of Agriculture and Food;

“organization” means an agricultural association, agricultural society or horticultural society to which this Act applies.

2. This Act applies to every agricultural association, agricultural society or horticultural society incorporated or continued under this Act.

Application

3.—(1) Every organization is a corporation without share capital.

Body  
corporate

(2) The *Corporations Information Act* does not apply to an organization.

R.S.O. 1980,  
c. 96  
does not  
apply

4. The Minister shall appoint an officer of the Ministry of Agriculture and Food to be the Director for the purposes of this Act.

Appointment  
of Director

5. An organization may be incorporated under this Act if each applicant signs the articles of incorporation and the articles of incorporation are forwarded to the Director.

Articles of  
incorporation

Contents of  
articles

**6.** Articles of incorporation shall set out,

- (a) the name of the organization to be incorporated;
- (b) the type of organization;
- (c) the objects for which the organization is to be incorporated;
- (d) the place in Ontario where the registered office of the organization is to be located;
- (e) the names and addresses of one or more proposed first directors;
- (f) the names and addresses of the members of the organization; and
- (g) any other matter required by this Act or the regulations to be set out in the articles.

Certificate of  
incorporation

**7.**—(1) If the Minister is satisfied that the requirements of this Act have been met and it is in the public interest to do so, the Minister may issue a certificate of incorporation to which is attached a copy of the articles of incorporation.

Date of  
incorporation

(2) An organization comes into existence on the date set out in its certificate of incorporation.

Name

**8.**—(1) An organization shall bear the name designated in the articles of incorporation.

Dispute over  
name

(2) If there is a dispute as to the name of an organization or if, in the opinion of the Minister, the name of an organization prejudicially affects the interests of another organization or corporation, the Minister may issue a certificate of amendment to the articles of incorporation changing the name of the organization.

Amendments  
to articles

**9.** An organization may by by-law, with the approval of the Minister, amend its articles of incorporation to change any provision set out in its articles including its name.

Annual  
meeting

**10.**—(1) Each organization shall hold an annual meeting of its members not later than six months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting or such other time as the Director may approve.

(2) The time and place of the annual meeting shall be set out in a by-law of the organization. Idem

(3) At least two weeks notice of the annual meeting shall be given by publishing it in a newspaper generally circulated in the area of the headquarters of the society and by mailing it to each member of the organization. Notice of annual meeting

**11.**—(1) The members of each organization, at the annual meeting, shall elect a board of directors. Board of directors

(2) The number of directors, their representation of certain districts or classes of members, and their method of selection shall be set out in the by-laws of the organization. Idem

(3) The directors shall appoint a treasurer or secretary-treasurer. Treasurer and secretary-treasurer

(4) Subject to subsection (3), the officers of the organization shall be appointed in the manner set out in the by-laws of the organization. Officers

(5) At each annual meeting, the retiring directors of the board shall present a report of the activities of the organization during the previous year and the audited financial statement for the previous year. Annual report and financial statement

**12.**—(1) Every board shall require the treasurer or secretary-treasurer to give security to cover against any loss of the funds of the organization. Security against loss

(2) Every board shall, in each year, inquire into the sufficiency of the security. Sufficiency of security

(3) If the security is insufficient, each director of the board is personally liable for any loss suffered by the organization thereby. Directors responsible for loss

**13.** No compensation shall be paid to a director, officer or member of an organization, other than the treasurer or secretary-treasurer, but reasonable expenses incurred by a director, officer or member in the performance of his or her duties may be paid. Compensation

**14.** A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting. Meetings of the board



Annual  
reports

**15.**—(1) Every organization shall, within ninety days of the annual meeting of the organization, submit to the Director,

- (a) a copy of the audited financial statement;
- (b) a statement of the number of current members;
- (c) a list of the directors and officers of the organization and their addresses; and
- (d) a copy of the annual report submitted at the annual meeting.

Information  
to be public

(2) The information filed under subsection (1) shall be open to examination by the public upon request to the Director.

Director may  
require  
information

(3) The Director may require an organization or an officer of the organization to furnish such information regarding the organization that the Director considers necessary or advisable.

Affidavits as  
to accuracy

(4) The Director may require that any information submitted under subsection (3) be accompanied by an affidavit of all or any of the officers of the organization deposing as to its accuracy.

Offence

**16.** Any officer, director or auditor of an organization who makes a false statement in any report or information required under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Legislative  
grant

**17.**—(1) The Minister may make an annual grant in the amount and to the organizations prescribed by regulation out of the moneys appropriated by the Legislature for such purposes.

Condition of  
grant

(2) It is a condition of the payment of a grant that none of the funds of the organization, from whatever source derived, have been expended in a manner inconsistent with the objects of the organization.

Inspection

(3) The Minister may appoint a person to inspect the books and accounts of any organization and the books and accounts of the organization shall be made available for that purpose.

Dissolution  
for cause

**18.**—(1) If an organization fails to comply with section 15, the Minister may cancel the certificate of incorporation of the

organization and it is dissolved on the date specified by the Minister.

(2) No organization shall be dissolved under this section unless twelve months notice has been given to the board of the organization by the Minister of the intention to dissolve the organization and the board is given the opportunity to bring the organization into good standing within that time.

Notice of  
dissolution

**19.** An organization may be dissolved by the Minister upon the authorization of a special resolution passed at a meeting of the members of the organization duly called for that purpose.

Dissolution  
upon request

**20.—**(1) If an organization is dissolved by the Minister, the persons comprising the board at the date of dissolution are the trustees of the assets of the organization and shall deliver to the Director a statement of the assets and liabilities of the organization.

Trustees

(2) The Director may direct the trustees to pay the debts of the organization and liquidate any of the assets for such purposes.

Payment of  
debts on  
dissolution

(3) Subject to the approval of the Director, all money and assets remaining after the payment of debts shall be disposed of by the trustees in such manner as they may determine.

Disposition  
of assets

PART II

AGRICULTURAL ASSOCIATIONS

**21.—**(1) This Part applies to agricultural associations.

Application

(2) Every agricultural association incorporated under the *Agricultural Associations Act* is continued as an agricultural association under this Act.

Associations  
continued  
R.S.O. 1980,  
c. 8

**22.** An association or group of persons formed for the purpose of advancing agriculture may be incorporated under this Act as an agricultural association.

Eligibility for  
incorporation

**23.** The objects of an agricultural association are,

Objects

- (a) to promote the development, sale and export of agricultural products; and
- (b) to provide educational opportunities related to agriculture and rural life.

Minimum  
membership

**24.** The Lieutenant Governor in Council may by regulation establish the minimum membership required for an agricultural association to be incorporated under this Act.

### PART III

#### AGRICULTURAL SOCIETIES

Application

**25.**—(1) This Part applies to agricultural societies.

Societies  
continued  
R.S.O. 1980,  
c. 14

(2) Every agricultural society incorporated under the *Agricultural Societies Act* is continued as an agricultural society under this Act.

Deemed  
societies

(3) The Canadian National Exhibition Association, the Western Fair Association and Central Canada Exhibition are deemed to be agricultural societies incorporated under this Act.

Criteria for  
incorporation

**26.** An agricultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least sixty persons who reside within forty kilometres of the place designated as the headquarters of a society; and
- (b) at least twenty of the incorporators are engaged in an agricultural occupation.

Refusal to  
incorporate  
society

**27.** If the headquarters of a proposed agricultural society is within forty kilometres of the headquarters of an existing society, the Minister shall notify the existing society and if it objects to the proposed society, the Minister may refuse to incorporate the proposed society.

Objects

**28.** The objects of an agricultural society are to encourage an awareness of agriculture and to promote improvements in the quality of life of persons living in an agricultural community by,

- (a) researching the needs of the agricultural community and developing programs to meet those needs;
- (b) holding agricultural exhibitions featuring competitions for which prizes may be awarded;
- (c) promoting the conservation of natural resources;
- (d) encouraging the beautification of the agricultural community;

- (e) supporting and providing facilities to encourage activities intended to enrich rural life; and
- (f) conducting or promoting horse races when authorized to do so by a by-law of the society.

**29.** If an agricultural society has not held an annual meeting in the time period prescribed under subsection 10 (1), the Director may appoint a time and place for the meeting to be held.

Failure to hold annual meeting

**30.** The land, as defined in the *Assessment Act*, occupied by an agricultural society or a tenant of a society is exempt from taxes for municipal and school purposes, other than local improvement rates, so long as the land or the proceeds from the rental of the land is used solely for the purposes of the society.

Tax exemption  
R.S.O. 1980,  
c. 31

**31.** The board of a society may pass by-laws,

- (a) prohibiting any theatrical, circus or acrobatic performance; and
- (b) regulating the sale of goods and produce,

By-laws respecting exhibition grounds

on exhibition grounds operated by the society or within 275 metres thereof on the day of an exhibition organized by the society.

**32.** Any person may join an agricultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Membership open

## PART IV

### HORTICULTURAL SOCIETIES

**33.—(1)** This Part applies to horticultural societies.

Application

(2) Every horticultural society incorporated under the *Horticultural Societies Act* is continued as a horticultural society under this Act.

Societies continued  
R.S.O. 1980,  
c. 204

**34.—(1)** A horticultural society may be incorporated to carry out its objects in any local municipality, as defined in the *Municipal Act*, having a population of not less than 200.

Society may be incorporated  
R.S.O. 1980,  
c. 302

(2) In a local municipality, having a population of not less than 25,000, there may be two horticultural societies and for

Additional societies

each additional 25,000 of population, there may be an additional society.

Where  
municipal  
reorgani-  
zation

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any horticultural society that has been incorporated prior thereto.

Criteria for  
incorporation

**35.** A horticultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least twenty-five persons in a territorial district or fifty persons elsewhere in Ontario; and
- (b) the incorporators are residents of the municipality or municipalities in which the society is to be incorporated.

Objects

**36.** The objects of a horticultural society are to encourage interest and improvement in horticulture,

- (a) by holding meetings respecting the theory and practice of horticulture;
- (b) by encouraging the planting of trees, shrubs and flowers on public and private grounds;
- (c) by promoting balcony and community gardening and outdoor beautification;
- (d) by arranging field trips, contests, competitions and exhibitions related to horticulture and awarding prizes;
- (e) by distributing seeds, plants, bulbs, flowers, trees and shrubs;
- (f) by promoting the protection of the environment;
- (g) by promoting the circulation of horticultural information through any media;
- (h) by promoting the benefits of therapeutic horticulture; and
- (i) by stimulating an interest in the study of horticulture.

Expenditures  
restricted

**37.** A horticultural society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes, upon any one of the projects enu-



merated in section 36 except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification.

**38.**—(1) Any person resident in the municipality in which a horticultural society is incorporated to carry out its objects is eligible to become a member by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Eligibility for membership

(2) Except as otherwise provided in the by-laws of a horticultural society, a partnership or corporation or an association directed towards horticultural interests may become a member of the society upon payment of the annual fee and shall designate one person to exercise the privilege of membership in the society.

Types of membership

**39.** Every horticultural society is entitled to be affiliated with the Ontario Horticultural Association upon payment of the fees established by the Association.

Affiliation

**40.** The board of a horticultural society may pass by-laws respecting the awarding of prizes for a product at an exhibition of the society.

By-laws respecting prizes

## PART V

### MISCELLANEOUS

**41.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing the terms and conditions upon which an agricultural society may hold races or trials of speed for horses and the amount of the prizes awarded therefor;
- (b) prescribing those organizations that are eligible to receive grants and prescribing the terms and conditions under which the grants may be paid;
- (c) establishing the amounts of any grants payable and the minimum or maximum amounts of such grants;
- (d) establishing a formula for determining the amount of any grant payable;
- (e) prescribing the powers and duties of the officers of any organization;



- (f) prescribing matters to be set out in the articles of incorporation;
- (g) prescribing criteria to be contained in the by-laws of a specific organization or of any class of organization;
- (h) respecting the expenditures of an organization and the filing of information related to such expenditures;
- (i) prescribing matters to be set out in the annual report.

## Repeals

**42.** The following are repealed:

1. The *Agricultural Associations Act*, being chapter 8 of the Revised Statutes of Ontario, 1980.
2. The *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980.
3. The *Agricultural Societies Amendment Act, 1982*, being chapter 51.
4. The *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980.
5. The *Horticultural Societies Amendment Act, 1982*, being chapter 52.
6. Section 11a of the *Canadian National Exhibition Association Act, 1983*, being chapter 23, as enacted by the Statutes of Ontario, 1985, chapter Pr8, section 3.

Commence-  
ment

**43.** This Act comes into force on the day it receives Royal Assent.

## Short title

**44.** The short title of this Act is the *Agricultural and Horticultural Organizations Act, 1987*.

# Bill 109

## An Act to regulate Motor Vehicle Repairs

The Hon. M. Kwinter

*Minister of Consumer and Commercial Relations*



---

*1st Reading*      June 29th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

## EXPLANATORY NOTES

The purpose of the Bill is to provide protection to motor vehicle owners whose vehicles require repairs. The main features of the Bill are as follows:

1. Written estimates must be provided on request. (Section 2)
2. Customers must be told in advance if there is a fee for an estimate and the amount of the fee. (Section 3)
3. No work may be charged for unless there was authorization for the work. (Subsection 4 (1))
4. Actual costs may not exceed an estimate by more than 10 per cent. (Subsection 4 (2))
5. Parts must be returned on request. (Section 7)
6. Specific warranties are set out. (Section 9)
7. Charging more for work that is covered by insurance is prohibited. (Section 10)
8. Repairers are barred from collecting illegal charges. (Section 11)

# Bill 109

1987

## An Act to regulate Motor Vehicle Repairs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“customer” means a person who contacts a repairer for an estimate, work or repairs to a vehicle;

“estimate” means an estimate of the total cost of work on and repairs for a vehicle;

“repairer” means a person who works on or repairs vehicles for compensation;

“vehicle” means a motor vehicle as defined in the *Highway Traffic Act*. R.S.O. 1980, c. 198

2.—(1) Where a customer asks for a written estimate, no repairer shall charge for any work on or repairs to a vehicle unless the repairer first gives the customer an estimate, in writing, of the cost of the work on or repairs to the customer’s vehicle. Estimates

(2) An estimate given under subsection (1) must include, Idem

- (a) the name and address of both the customer and repairer;
- (b) the make, model, vehicle identification number and licence number of the vehicle;
- (c) a description of the work or repairs to be made to the vehicle;
- (d) the parts to be installed and a statement as to whether they will be new, used or reconditioned;
- (e) the price of the parts to be installed;

- (f) the number of hours to be billed, the hourly rate and the total cost of labour;
- (g) the total amount to be billed; and
- (h) the date the estimate is given and the date after which it ceases to apply.

Estimate fee      **3.—**(1) No person shall charge a fee for an estimate unless the customer is told in advance that a fee will be charged and the amount of the fee.

Idem              (2) A fee for an estimate shall be deemed to include the cost of reassembling the vehicle and the cost of parts that will be damaged and must be replaced when reassembling if the work or repairs are not authorized by the customer.

Idem              (3) No person shall charge a fee for an estimate if the work or repairs in question are authorized and carried out.

Authorization required      **4.—**(1) No person shall charge for any work on or repairs to a vehicle unless the customer authorizes the work or repairs.

Idem              (2) No person shall charge, for work or repairs for which an estimate was given, an amount that exceeds the estimate by more than 10 per cent.

Authorization by telephone      **5.** An authorization for work or repairs that is given by telephone is not effective for the purpose of this Act unless the person receiving the authorization records,

- (a) the name and telephone number of the person giving the authorization; and
- (b) the date and time of the authorization.

Disclosure      **6.** Every repairer shall post signs as prescribed by the regulations in a conspicuous place clearly visible to prospective customers stating,

- (a) that written estimates are available on request;
- (b) whether there is a charge for an estimate;
- (c) the cost of computing labour charges including,
  - (i) the hourly rate,

- (ii) whether a rate predetermining the length of time required for the work or repairs will be applied, and
- (iii) commissions payable,
- (d) that replaced parts will be available to the customer after the work or repairs; and
- (e) the telephone number of the regional office of the Ministry of Consumer and Commercial Relations where complaints may be directed.

**7.—**(1) Every repairer shall return to the customer all parts removed from the vehicle in the course of work or repairs unless advised on completion of the work or repairs that the customer does not require their return. Return of parts

(2) Every repairer shall keep parts removed from one vehicle separate from the parts removed from any other vehicle and, if their return is requested by the customer, shall return the parts in a clean container. Parts kept separate

(3) Subsections (1) and (2) do not apply to parts, Exception

- (a) for which no charge has been made; or
- (b) replaced under warranty whose return to the manufacturer or distributor is required.

**8.—**(1) The repairer, shall, on completion of work or repairs, provide the customer with an invoice showing, Invoice

- (a) the name and address of both customer and repairer;
- (b) the make, model, vehicle identification number and licence number of the vehicle;
- (c) the date the vehicle is returned to the customer;
- (d) the odometer reading at the time of return;
- (e) a description of the work or repairs made to the vehicle;
- (f) the parts installed and whether they are new, used or reconditioned;
- (g) the price of the parts installed;



- (h) the number of hours billed, the hourly rate and the total cost of labour;
- (i) the total amount billed; and
- (j) the terms of the warranty.

Idem (2) No repairer shall charge for shop supplies.

Warranty **9.**—(1) Every repairer warrants all new or reconditioned parts installed and the labour required to install them for a minimum of ninety days or 5,000 kilometres, whichever comes first.

Idem (2) The person having charge of a vehicle that becomes inoperable or unsafe to drive because of the failure or inadequacy of work or repairs to which a warranty under subsection (1) applies may have the failure or inadequacy repaired at the closest facility available for the work or repairs.

Idem (3) Where work or repairs are made under subsection (2), the person entitled to a warranty under subsection (1) is entitled, in addition to any other rights or recourse available at law, to recover from the original repairer the cost of the work or repairs and reasonable towing charges.

Consistent cost **10.** No person shall give an estimate or charge an amount for work or repairs that is greater than that usually given or charged by that person for similar work on or repairs to a similar vehicle merely because the cost is to be paid, directly or indirectly, by an insurance company registered under the *Insurance Act*.

R.S.O. 1980,  
c. 218

Illegal charges not payable **11.**—(1) No charge made in contravention of this Act is collectable or payable.

Idem (2) Any payment of a charge that was levied in contravention of this Act or any entitlement under subsection 9 (3) is recoverable by the person that made the payment or by the warranty holder in a court of competent jurisdiction.

Offence **12.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem (2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

(3) Where a corporation has been convicted of an offence under this Act, <sup>Idem</sup>

- (a) each director of the corporation; and
- (b) each officer, employee or agent of the corporation who was in whole or in part responsible for the contravention,

is a party to the offence unless he or she satisfies the court that he or she did not authorize, permit or acquiesce in the offence.

**13.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) exempting any person or class of persons from the application of any provision of this Act;
- (b) prescribing conditions for any exemptions prescribed under clause (a);
- (c) prescribing size, form and style of signs for the purposes of section 6;
- (d) exempting any class of vehicle, repairer, customer or part from the application of section 9 and attaching conditions to any exemption.

**14.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. <sup>Commence-</sup>  
<sup>ment</sup>

**15.** The short title of this Act is the *Motor Vehicle Repair Act, 1987*. <sup>Short title</sup>



# Bill 110

## **An Act to establish the Ontario Automobile Insurance Board and to provide for the Review of Automobile Insurance Rates**

**The Hon. M. Kwinter**  
*Minister of Financial Institutions*



---

*1st Reading*      June 29th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

### EXPLANATORY NOTE

The Bill provides for the establishment of the Ontario Automobile Insurance Board (Part I). The Board will establish and review rates or ranges of rates for the classes of risk exposure for the categories of automobile insurance prescribed by the regulations (sections 19 and 20). Except where an insurer can justify higher or lower rates, an insurer will be required to charge the rate or a rate within the range of rates set by the Board (section 21). All rates charged by insurers must be approved by the Board (sections 21, 22 and 23). The rates related to policies issued under the *Compulsory Automobile Insurance Act* must also be approved (section 24).

Bill 110

1987

**An Act to establish the Ontario  
Automobile Insurance Board and to provide  
for the Review of Automobile Insurance Rates**

Contents

Section	Section
1. Definitions	
Part I	Part II
Ontario Automobile Insurance Board	Rate Review
2. Board established	19. Classes of risk exposure
3. Composition of Board	20. Premium rates to be set by Board
4. Quorum	21. Prohibition
5. Chairperson and vice-chairperson	22. Approval of rates
6. Completion of matters	23. Rates outside range
7. Staff	24. Facility Association rates
8. Immunity	25. Certificate of approval
9. Annual report	Part III
10. Moneys	Enforcement, Regulations and Miscellaneous
11. Expeditious procedures	26. Offences and penalties
12. Powers and duties of Board	27. Policy statements
13. Orders	28. Regulations
14. Exclusive jurisdiction	29. Non-application of R.S.O. 1980, c. 446
15. Access to material, decisions and orders	30. Conflict
16. Costs	31. Complementary amendments
17. Stated case	32. Commencement
18. Appeal to Divisional Court	33. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated on a highway without a permit issued under section 7 of the *Highway Traffic Act*;

R.S.O. 1980,  
cc. 218, 198



“Board” means the Ontario Automobile Insurance Board established under this Act;

“industry-wide hearing” means a hearing under section 20;

R.S.O. 1980, c. 218, “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“prescribed” means prescribed by the regulations;

“rate” means the amount payable under contracts of automobile insurance for an identified risk exposure whether expressed in dollar terms or in some other manner and includes surcharges, dividends, fees, discounts and rebates;

“regulations” means the regulations made under this Act;

“Superintendent” means the Superintendent of Insurance.

Facility  
Association  
R.S.O. 1980,  
c. 83

(2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

## PART I

### ONTARIO AUTOMOBILE INSURANCE BOARD

Board  
established

**2.** A board to be known as the Ontario Automobile Insurance Board is established.

Composition  
of Board

**3.—**(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint.

Remuneration  
and expenses

(2) The members of the Board who are not Crown employees shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines.

Quorum

**4.—**(1) One-half of the members of the Board constitutes a quorum of the full Board.

Idem

(2) One-half of the members of a panel of the Board constitutes a quorum of the panel.

Chairperson  
and vice-  
chairperson

**5.—**(1) The Lieutenant Governor in Council shall appoint a member of the Board to be its chairperson and may appoint one or more other members as vice-chairpersons.

(2) The chairperson shall assign members of the Board to its various sittings and is its chief executive officer.

Chairperson  
and chief  
executive  
officer

(3) The vice-chairperson shall perform such duties as may be assigned to him or her under this Act and, if the chairperson is unable to act, the vice-chairperson may act as chairperson.

Vice-chair-  
person

(4) If there is more than one vice-chairperson, the chairperson may designate one of them to act in the absence of the chairperson.

Idem

(5) The chairperson may designate one or more members of the Board to sit as a panel and may direct the panel to conduct any hearing or to authorize any inquiry, investigation or other proceeding that the Board itself could conduct or authorize.

Panels

(6) Notwithstanding subsection (5), the chairperson shall not appoint less than three members of the Board to a panel that conducts an industry-wide hearing.

Idem

**6.—**(1) If a member of the Board for any reason ceases to be a member, he or she may, with the consent of the chairperson, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties and responsibilities and exercise any powers that he or she would have had had he or she not ceased to be a member of the Board.

Completion  
of matters by  
members  
who resign  
or retire, etc.

(2) Notwithstanding subsection 4 (2), if a member of the Board for any reason is unable to carry out and complete his or her duties, the Board and every panel of which he or she was a member may carry out and complete any duties and responsibilities and exercise any powers that it would have had had he or she not been unable to carry out and complete his or her duties.

Completion  
of matters  
where  
member not  
able to  
continue

**7.—**(1) Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act* and one of them shall be appointed as executive director of the Board and another its secretary.

Staff  
R.S.O. 1980,  
c. 418

(2) The Board may engage persons other than those appointed under subsection (1) to provide professional, technical or other assistance to the Board and may establish the duties and terms of engagement and provide for the payment of the remuneration and expenses of such persons.

Professional  
assistance

## Immunity

**8.**—(1) No action or other proceeding for compensation or damages shall be instituted against the Board, its members or employees or persons appointed under subsection 7 (2) for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or the regulations or for any neglect or default in the performance or exercise in good faith of such duty or power.

Crown  
Liability  
R.S.O. 1980,  
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Testimony in  
civil  
proceedings

(3) Except with the consent of the Board, no member or employee of the Board and no person appointed under subsection 7 (2) shall be required to testify in any civil proceeding, in any proceeding before the Board or in any proceeding before any other tribunal respecting information obtained in the discharge of his or her duties or while acting within the scope of his or her employment under this Act.

Annual  
report

**9.**—(1) The Board shall at the close of each fiscal year file with the Minister an annual report upon the affairs of the Board.

Further  
reports

(2) The Board shall make such further reports and provide the Minister with such information as the Minister from time to time requires.

Tabling of  
reports

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and lay them before the Assembly if it is in session or, if not, at the next session.

## Moneys

**10.**—(1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall, until the 31st day of March, 1988, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Assessment  
of insurers

(2) The Lieutenant Governor in Council may assess all insurers with respect to any of the amounts appropriated under subsection (1) and not otherwise recovered and an insurer shall pay the amount assessed against it.

## Idem

(3) Where an assessment is made under subsection (2), the share of a particular insurer shall be in the same proportion as the total gross premiums written by the insurer in Ontario for automobile insurance in its last preceding fiscal year bears to

the total of all gross premiums written by all insurers in Ontario for automobile insurance in the last preceding fiscal year of each.

**11.**—(1) The Board shall adopt the most expeditious method of determining the questions on the merits arising in any proceeding. Expeditious  
procedures

(2) The Board shall give adequate public notice of its hearings to the public. Notice of  
proceeding

(3) The Board shall give notice of an industry-wide hearing to every insurer. Idem

(4) The Board shall give notice of its hearings to the Superintendent. Idem

(5) The parties to a proceeding before the Board are, Parties

(a) in the case of an industry-wide hearing,

(i) every insurer that gives the Board notice of its desire to participate in the hearing as a party, and

(ii) such other persons as the Board may name as parties; and

(b) in any other case,

(i) the applicant, and

(ii) such other persons as the Board may name as parties.

(6) Where two or more parties have a common interest in respect of an application to the Board, the parties may authorize one or more of those parties to represent all of them and any order made by the Board may be made applicable to all. Common  
interest

(7) The Superintendent, as a party or otherwise, is entitled at any time, by counsel or otherwise, to take part in proceedings before the Board or to take part in appeals from any order of the Board whether or not the Superintendent appeared at any hearing or portion of a hearing. Representa-  
tion of  
Superin-  
tendent

**12.**—(1) The Board may exercise such powers and shall perform such duties as are necessary to carry out its functions Powers and  
duties of  
Board



under this Act and without restricting the generality of the foregoing, it may,

- (a) make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it;
- (b) determine, with respect to any particular hearing, what constitutes adequate public notice;
- (c) before or during a hearing, conduct any inquiry or inspection it considers necessary;
- (d) if, in its opinion, additional information is required by the Board, order an insurer or the Facility Association to provide the information in the possession of the insurer or Facility Association, as the case may be;
- (e) authorize any person, herein referred to as an inspector, to enter any place where an insurer or the Facility Association carries on business or keeps documents or things relating directly or indirectly to automobile insurance and to examine documents and things of the insurer and the Facility Association and make such inquiries as may be relevant;
- (f) require any insurer, or the Facility Association, to provide print-outs of any documents or other information stored by electronic means unless the insurer or the Facility Association, as the case may be, is able to provide to the Board a copy of the document or information in some other form that is acceptable to the Board; and
- (g) in determining any matter, consider any relevant information obtained by it in addition to evidence given at a hearing, if it first informs the persons taking part in the proceedings of the additional information and gives them an opportunity to explain or refute it.

Assistance

(2) Every insurer and the Facility Association and their respective directors, officers and employees shall give all reasonable assistance to an inspector and shall answer all proper questions relating to the inquiry.

Powers of  
inspector

(3) An inspector for the purposes of carrying out his or her duties,

- (a) may enter any place described in clause (1) (e);
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of the examination or inquiry;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them; and
- (d) may question a person on matters that are or may be relevant to the carrying out of the examination or inquiry subject to the person's right to have counsel or some other representative present during the examination.

(4) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Entry to  
dwellings

(5) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an examination or inquiry under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the person named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

Warrant for  
search

(6) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out an examination or inquiry under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the person named in the warrant.

Warrant for  
entry

(7) A warrant issued under this section,

Execution  
and expiry of  
warrant

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.



- Obstruction (8) No person shall hinder, obstruct or interfere with an inspector in the execution of a warrant or otherwise impede an inspector in carrying out an examination or inquiry.
- Idem (9) Subsection (8) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (5).
- Admissibility of copies (10) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.
- Idem (11) No document or thing or copy thereof or extract therefrom in the possession of an inspector shall be introduced in evidence in any proceeding unless the owner of the document or thing is first given notice of the intent to introduce it into evidence.
- Orders **13.**—(1) The Board shall determine matters before it by order.
- Terms (2) The Board may make an order subject to such terms as are set out in the order.
- Conditions precedent (3) Without restricting the generality of subsection (2), the Board may provide in an order that the order does not come into effect until the performance, to the satisfaction of the Board or of a person named by it for the purpose, of any conditions that the Board may impose.
- Interim orders (4) The Board may make interim orders pending the final decision of the matter before it.
- Making of order (5) An order of the Board shall be deemed to be sufficiently made if it is signed by a member or the secretary of the Board.
- Copies of orders (6) The Board shall provide the Superintendent with a copy of every order made by it forthwith after making the order.
- Idem (7) The Board shall provide each insurer with a copy of every order that results from an industry-wide hearing forthwith after making the order.
- Exclusive jurisdiction **14.**—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter

before it and, subject to section 18, its action or decision thereon is final and conclusive for all purposes.

(2) The Board may at any time, if it considers it advisable to do so, reconsider any order or decision made by it and confirm, vary or revoke the order or decision and in reconsidering any order or decision, it may restrict the reconsideration to such issues as it considers appropriate.

Reconsideration of decisions, etc.

**15.** Upon payment of the prescribed fee, any person may during normal office hours of the Board,

Access to information

- (a) examine material filed with the Board for the purpose of a hearing;
- (b) examine rates filed with the Board by an insurer;
- (c) examine a copy of any decision, order or reasons made or given by the Board; and
- (d) obtain copies of any such material, rates, decision, order or reasons.

**16.—**(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be assessed.

Costs

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be assessed and allowed.

Idem

(3) The Board may establish a scale under which such costs shall be assessed.

Idem

(4) Costs awarded under this section may include the costs of the Board, regard being had to the time and expenses of the Board.

Idem

**17.—**(1) The Board may, at the request of the Minister, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Board, is a question of law.

Stated case

(2) The Divisional Court shall hear and determine the stated case and remit it to the Board with the opinion of the Court thereon.

Idem

**18.—**(1) An appeal lies to the Divisional Court from any order of the Board upon a question of law or jurisdiction, but

Appeal to Divisional Court

no such appeal lies unless leave to appeal is obtained from the court within thirty clear days of the making of the order sought to be appealed from or within such further time as the court under the special circumstances of the case allows.

Board and  
Superin-  
tendent may  
be heard

(2) The Board and the Superintendent are entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Board to act

(3) The Divisional Court shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion, but in no case shall such order be retroactive in its effect.

Not liable for  
costs

(4) The Board is not liable for costs in connection with any appeal or application for leave to appeal under this section.

No stay

(5) An order of the Board takes effect at the time set out in the order, and its operation is not suspended by an appeal unless the Court otherwise orders.

## PART II

### RATE REVIEW

Classes of  
risk exposure

**19.** The Lieutenant Governor in Council may prescribe the classes of risk exposures that may be considered in determining the premiums for coverages for different categories of automobile insurance and the procedures to be followed in assigning insureds and vehicles to any such class of risk exposure.

Premium  
rates to be  
set by Board

**20.—**(1) Upon classes of risk exposure being prescribed for a category of automobile insurance, the Board, following an industry-wide hearing, shall set a rate or range of rates with respect to each such class of risk exposure.

Review

(2) The Board may hold industry-wide hearings to review any rates or range of rates set by it and following such a hearing may vary any such rate or range of rates.

Expression of  
rates

(3) A rate or range of rates set by the Board may be expressed in dollar terms or in such other manner as the Board considers appropriate so that a person may determine the rate or range of rates for each class of risk exposure.

Fair rates

(4) In setting a rate or range of rates, the Board shall set a rate or range of rates that in the opinion of the Board is just and reasonable and not excessive or inadequate.

(5) An industry-wide hearing shall be on the motion of the Board or on request of the Minister of Financial Institutions. Hearing

(6) The Board in its discretion may consider at any one hearing the rate or range of rates for such class or classes of risk exposure for such category or categories of automobile insurance as it considers appropriate. Idem

(7) In determining rates or ranges of rates, the Board may consider any financial or other matter directly or indirectly affecting rates. Scope

(8) The Board may, for the purposes of an industry-wide hearing, publish proposed rates or ranges of rates prepared by its employees for any class or classes of risk exposures for any category or categories of automobile insurance and the Board shall make copies thereof available to the public without charge. Staff proposals

(9) The Board shall establish a procedure to give notice to the public of proposed rates or ranges of rates and to receive written submissions from the public in lieu of or in addition to any participation in a hearing. Response of public

(10) Before the commencement of an industry-wide hearing, the Board, after giving the parties an opportunity to be heard, may identify the issues that in its opinion are to be determined at the industry-wide hearing. Pre-hearing

(11) A rate or range of rates set by the Board takes effect ninety days after the Board makes its order setting the rate or range of rates unless the Board otherwise orders. Effective date

**21.**—(1) Unless otherwise permitted under this Act, no insurer shall, Prohibition

(a) determine premiums for any category of automobile insurance except on the basis of the prescribed classes of risk exposure for that category; or

(b) charge any rate other than,

(i) a rate that has been approved by the Board under section 22 or 23 in relation to that insurer except where subclause (ii) applies, or

(ii) a rate that may be charged under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*

R.S.O. 1980,  
c. 83



where the contract has been submitted to the insurer under that Act.

Revocation  
of approved  
rates

(2) Where the Board under subsection 20 (2) varies any rate or range of rates for a class of risk exposure, all approvals of rates previously given under sections 22 and 23 for that class of risk exposure shall be deemed to be revoked on the day the new rate or range of rates takes effect.

Application

(3) Subsection (1) does not apply to an insurer with respect to a particular category of automobile insurance until the rates or ranges of rates with respect to the prescribed classes of risk exposure for that category have been set by the Board and have taken effect.

Prohibition,  
transitional

(4) Where an insurer writes contracts of automobile insurance that are not within a category of automobile insurance for which the rates or ranges of rates have been set under section 20, the insurer shall not charge any rate in respect of a coverage under such a contract that exceeds,

- (a) the capped rate for the coverage where no order has been made under this section; or
- (b) the rate set out in an order made under this section where such an order has been made.

Rates,  
transitional

(5) An insurer may apply to the Board for an order to increase any of its capped rates in respect of coverages referred to in subsection (4) and the Board may approve the increase if the insurer demonstrates that,

- (a) the circumstances of the insurer justify the increase; and
- (b) the resulting rate is just and reasonable and not excessive.

Idem

(6) The Board, in lieu of approving an increase of a capped rate, may prohibit or vary the rates proposed by the applicant having regard to the criteria set out in clauses (5) (a) and (b) and, if it is of the opinion that a capped rate that is the subject of the application is excessive, it may reduce the capped rate.

Idem

(7) The Board of its own motion may, and on the request of the Superintendent shall, review the capped rates of an insurer with respect to coverages referred to in subsection (4) and the Board may, having regard to the criteria set out in clauses (5) (a) and (b) and subsection (6), increase or decrease any such capped rate.

(8) Where the Board decreases a capped rate of an insurer, the decrease may be made retroactive to the 23rd day of April, 1987 or such later date as the Board may determine and where the order is retroactive, it shall provide for the reimbursement of policyholders for any excess premiums.

Idem

(9) For the purposes of this section, "capped rate" means the capped rate for the coverage as determined under the *Automobile Insurance Act, 1987*.

Definition

1987, c. ...

(10) Where an insurer was not providing a coverage on the 23rd day of April, 1987 but subsequently provides the coverage, the capped rate for the coverage is,

New insurers and coverages

(a) with respect to a coverage described in clause (a) of the definition of "capped rate" in section 1 of the *Automobile Insurance Act, 1987*, the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using the Facility Association rate in effect on that date; and

1987, c. ...

(b) with respect to a coverage described in clause (b) or (c) of the said definition, 90 per cent of the premium described in clause (a) of this subsection.

**22.—**(1) An insurer that intends to charge the rate set under section 20 or a rate within the range of rates set under that section for a class of risk exposure shall apply to the Board for approval of the rate it intends to charge.

Approval of rates

(2) An application shall be made under subsection (1),

Timing

(a) within twenty days of an order being made under section 20 setting a rate or range of rates;

(b) before varying any rate previously approved by the Board, where the rate, when varied, will be within the range of rates set out under section 20; and

(c) before entering any contract of automobile insurance with respect to which a rate or range of rates has been set under section 20, where the insurer was not writing contracts that covered that class of risk exposure at the time the rate or range of rates was set.

(3) An application under subsection (1) shall be accompanied by the statutory declaration of an officer of the insurer

Statutory declaration



declaring that the proposed rate is the same as the rate set by the Board or is within the range of rates set by the Board, as the case may be.

Extension of  
time

(4) On the application of the insurer made not less than three days that are not a Saturday or holiday before the expiry of the twenty-day period referred to in clause (2) (a), the Board may extend the period for a period not exceeding twenty days.

Idem

(5) Where an application is received under subsection (4), the Board shall be deemed to have approved the application unless it holds a hearing in respect of the application before the expiry of the twenty-day period referred to in clause (2) (a).

Late filing

(6) The Board shall accept applications received by it under subsection (1) after the expiry of a limitation period prescribed by this section but such acceptance does not relieve an insurer from prosecution under this Act.

Approval

(7) An application under subsection (1) shall be deemed to have been approved by the Board fifteen days after its filing unless the Board within that fifteen-day period advises the applicant orally or otherwise that it has not approved the application because the Board is of the opinion that the rate is not the same as the rate set by the Board under section 20 or within the range of rates set under that section.

Idem

(8) Where the Board advises an applicant orally that it has not approved an application under subsection (1), it shall forthwith mail a written notice to the insurer confirming that fact.

Hearing

(9) Where the Board notifies an insurer that it has not approved an application under subsection (1), it shall hold a hearing.

Idem

(10) Notwithstanding that an application may be deemed to have been approved under subsection (7), if the Board subsequently is of the opinion that the rate is not the same as the rate set under section 20 or within the range of rates set under that section, the Board shall hold a hearing into the matter.

Powers of  
Board

(11) Following a hearing under subsection (9) or (10), the Board may approve the application or it may vary the rate to the rate set under section 20 or to a rate within the range of rates set under that section and the rate as so varied shall be deemed to be a rate approved under this section.

(12) The Board may waive public notice with respect to a hearing under this section. Public notice may be waived

**23.**—(1) Where an insurer wishes to charge a rate for a class of risk exposure other than a rate to which section 22 applies, the insurer shall apply to the Board for approval of the rate. Rates outside range

(2) Where an application is made under this section, the Board may approve, reject or vary the proposed rate. Power of Board

(3) Where an insurer applies for the approval of any rate under this section, the insurer must demonstrate that the proposed rate is just and reasonable and not excessive or inadequate and that the circumstances of the insurer justify the use of the proposed rate. Fair rates

**24.**—(1) The Facility Association shall apply to the Board for approval of rates prepared by it under section 10 of the *Compulsory Automobile Insurance Act*. Facility Association rates  
R.S.O. 1980, c. 83

(2) The Board, following a hearing, may approve the rates set out in an application under subsection (1) or it may vary any such rates. Powers of Board

(3) Where the Facility Association applies for the approval of rates under this section, it must demonstrate that the proposed rates are just and reasonable and not excessive or inadequate. Fair rates

**25.** The secretary of the Board shall issue a certificate of approval with respect to every application approved under section 22, 23 or 24. Certificate of approval

### PART III

#### ENFORCEMENT, REGULATIONS AND MISCELLANEOUS

**26.**—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case. Offences and penalties

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation Parties

or Facility Association, as the case may be, has been prosecuted or convicted.

Consent (3) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board.

Limitation period (4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Board.

Policy statements **27.**—(1) The Superintendent, with the approval of the Lieutenant Governor in Council, may issue policy statements on matters related to automobile insurance rates.

When effective (2) A policy statement takes effect on the day it is published in *The Ontario Gazette*.

Effect of statements (3) In making orders under this Act, the Board shall have regard to the policy statements issued under this section.

Regulations **28.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing classes of risk exposure and categories of automobile insurance for the purposes of this Act;
- (b) prescribing procedures to be followed in assigning insureds and vehicles to a class of risk exposure;
- (c) prescribing the manner of gathering statistics and other information in relation to automobile insurance;
- (d) prescribing information to be filed with the Board by insurers and the Facility Association and the time or times at which it is to be filed;
- (e) prescribing fees payable with respect to proceedings before the Board and with respect to the fees referred to in section 15;
- (f) prescribing forms including affidavits and statutory declarations and providing for their use.

**29.** The *Regulations Act* does not apply to rules made under clause 12 (1) (a) or to the orders of the Board.

**30.** In the event of conflict between this Act and any other Act except the *Human Rights Code, 1981*, this Act prevails. Conflict  
1981, c. 53

**31.—(1)** Subsections 10 (3) to (13) of the *Compulsory Automobile Insurance Act*, being chapter 83 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) The Association shall prepare and promulgate rates in respect of contracts provided under the Plan using the classes of risk exposure, categories of automobile insurance and procedures prescribed under the *Ontario Automobile Insurance Board Act, 1987*. Rates  
1987, c. ...

(4) Rates prepared under subsection (3) do not come into effect until approved by the Ontario Automobile Insurance Board. Idem

**(2) Clause 15 (d) of the said Act is repealed.**

**32.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**33.** The short title of this Act is the *Ontario Automobile Insurance Board Act, 1987*. Short title



# Bill 111

## An Act to amend the Education Act

Mr. Mackenzie



---

*1st Reading*      June 29th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to allow boards under the *Education Act* to provide certain medical and insurance benefits to their retired employees, their spouses and children. The Act as now worded allows boards to provide these benefits only to current employees and their families.

The Bill amends the Act in a manner consistent with the recent amendment to the *Municipal Act* made by the *Municipal Statute Law Amendment Act, 1987*.

**Bill 111**

**1987**

**An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Subclauses 155 (1) (a) (i), (ii) and (iii) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:**

- (i) group life insurance for its employees and retired employees, or any class of them,
- (ii) group accident insurance or group sickness insurance for its employees and retired employees, or any class of them, and their spouses and children,
- (iii) hospital, medical, surgical, nursing or dental services, or payment therefor, for employees and retired employees, or any class of them, and their spouses and children; and

(2) Subsection 155 (2) of the said Act is amended by inserting after “employees” in the second line “and to retired employees”.

(3) Subsection 155 (3) of the said Act is repealed.

**2. This Act comes into force on the day it receives Royal Assent.** Commence-  
ment

**3. The short title of this Act is the *Education Amendment Act, 1987*.** Short title



# Bill 115

## An Act to amend the Ontario Lottery Corporation Act

The Hon. J. Eakins  
*Minister of Tourism and Recreation*



---

*1st Reading*      July 3rd, 1986  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---

#### EXPLANATORY NOTE

The purpose of the Bill is to prohibit persons from engaging in a business that involves the sale, distribution or advertisement of lottery tickets unless authorized by the Ontario Lottery Corporation.

A penalty of \$50,000 or imprisonment for a term of not more than one year, or both, is provided in section 4.

**Bill-115****1987**

**An Act to amend the  
Ontario Lottery Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 1 of the *Ontario Lottery Corporation Act*, being chapter 344 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ca) "lottery ticket" means a ticket or receipt issued under a lottery scheme conducted or managed by the Corporation under clause 7 (a) or (b) as evidence of participation in the scheme.

**2.** Section 5 of the said Act is amended by adding thereto the following subsection:

(4) The Board may make rules governing and regulating the lottery schemes conducted or managed by the Corporation under clause 7 (a) or (b) and without limiting the generality of the foregoing may regulate, Game rules

- (a) the amount and type of prizes;
- (b) the manner of selecting prize winners;
- (c) the conditions and qualifications for entitlement to prizes; and
- (d) the procedure for claiming prizes.

**3.** Section 8 of the said Act is repealed.

**4.** The said Act is amended by adding thereto the following sections:



Prohibitions  
respecting  
lottery tickets

**13.**—(1) No person shall engage in a business that involves the sale, advertisement or distribution of lottery tickets unless authorized by the Corporation.

Idem

(2) No person authorized by the Corporation to sell lottery tickets shall sell a lottery ticket to a member of the public at other than the face amount shown on the lottery ticket.

Idem

(3) No person shall purchase a lottery ticket in Ontario for the purpose of engaging in a business outside Ontario involving the sale, distribution or advertisement of lottery tickets.

Offence

**14.** Every person who contravenes subsection 13 (1), (2) or (3) and every director or officer of a corporation who authorized, permitted or acquiesced in the contravention of subsection 13 (1), (2) or (3) by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both.

Payment into  
court

**15.** Where there is a dispute over entitlement to or payment of a prize or where two or more persons make adverse claims in respect of a prize, the Corporation may, in the case of a money prize, pay the money into the Supreme Court and, in the case of any other prize, deliver the prize or title documentation for the prize to the Supreme Court pending settlement or determination of the dispute by a court of competent jurisdiction.

Commence-  
ment

**5.** This Act comes into force on the day it receives Royal Assent.

Short title

**6.** The short title of this Act is the *Ontario Lottery Corporation Amendment Act, 1987*.

## Bill 116

**An Act to revise  
the Loan and Trust  
Corporations Act**

The Hon. M. Kwinter  
*Minister of Financial  
Institutions*

## Projet de loi 116

**Loi portant révision de la  
Loi sur les compagnies de  
prêt et de fiducie**

L'honorable M. Kwinter  
*ministre des Institutions  
financières*



*1st Reading*      July 3rd, 1986  
*2nd Reading*     November 13th, 1986  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the  
Finance and Economic Affairs  
Committee)*

*1<sup>re</sup> lecture*      23 octobre 1986  
*2<sup>e</sup> lecture*      13 novembre 1986  
*3<sup>e</sup> lecture*  
*sanction royale*

*(Réimprimé tel qu'il est modifié par le  
Comité des affaires financières et  
économiques)*

## EXPLANATORY NOTES

The Bill revises the existing law related to loan and trust corporations. Among its principal features are the following:

1. New procedures are established for the incorporation of provincial loan and trust corporations.
2. Provincial and extra-provincial corporations will be required to adhere to essentially the same rules. Equality of treatment is obtained through a registration system.
3. All directors will be required to meet a new standard and duty of care.
4. Corporations must have at least five directors.
5. At least one half of the board of directors must be outside directors.
6. New conflict of interest rules are introduced for directors and other restricted parties.
7. Limitations on cross-directorships are introduced.
8. The board of directors will be required to establish an audit committee and an investment committee.
9. New duties are imposed on the auditors of a corporation. Among other duties, an auditor will be required to report matters of which he or she becomes aware in the course of his or her duties that may adversely affect the corporation. The auditor will also report on conflicts of interest. Similar duties are imposed on other outside advisors such as lawyers and appraisers. The auditor will also be required to attend meetings of the audit committee.
10. The investment committee of a corporation will be required to develop prudent investment standards for the corporation and the corporation will be required to observe those standards.
11. Minimum capital requirements are increased for all corporations. Existing corporations will have five years to comply with the new requirements.
12. The borrowing multiple of a corporation (ie. its power to accept deposits) will be set at between ten and twenty-five times its assets and will be subject to approval by the Superintendent. The borrowing multiple will be reviewed by the Superintendent on an annual basis.
13. Investment powers of corporations will be expanded, subject to regulatory approval and quantum limits, to permit greater activity in the fields of commercial lending, commercial leasing and consumer lending.
14. Restrictions are placed on investments by or through subsidiaries of corporations.
15. The investment powers of loan corporations will be the same as those for trust corporations, but only trust corporations will be permitted in the business of estate and trust administration.
16. Provision is made for increased protection for persons dealing with a corporation in its capacity as a provider of estate, trust and agency services.

## NOTES EXPLICATIVES

Le projet de loi porte révision de la loi existante relative aux compagnies de prêt et de fiducie. Quelques-unes de ses principales caractéristiques sont les suivantes :

1. Il est établi de nouvelles procédures de constitution des compagnies provinciales de prêt et de fiducie.
2. Les compagnies provinciales et extraprovinciales sont tenues d'obéir en grande partie aux mêmes règles. Le système d'inscription les met sur un pied d'égalité.
3. Les administrateurs sont tenus d'observer une nouvelle norme et un nouveau devoir de prudence.
4. Les compagnies de prêt et de fiducie comptent au moins cinq administrateurs.
5. Au moins la moitié du conseil d'administration se compose d'administrateurs externes.
6. Il est établi de nouvelles règles concernant les conflits d'intérêts et portant sur les administrateurs et les autres personnes assujetties à des restrictions.
7. Des limitations sont apportées à la participation d'une personne aux conseils d'administration de plus d'une compagnie inscrite.
8. Le conseil d'administration est tenu d'établir un comité de vérification et un comité de placements.
9. De nouvelles obligations incombent au vérificateur de la compagnie. Il est notamment tenu de faire rapport de toute situation dont il prend connaissance dans l'exercice de ses fonctions et qui peut porter atteinte à la situation de la compagnie. Il signale également l'existence de conflits d'intérêts. Des obligations semblables incombent à d'autres conseillers externes, notamment les avocats et les estimateurs. Le vérificateur est également tenu d'assister aux réunions du comité de vérification.
10. Le comité de placements est tenu d'élaborer des normes de placements sûrs que la compagnie est tenue d'observer.
11. Les normes de capital minimal de toutes les compagnies sont majorées. Un délai de cinq ans est accordé aux compagnies existantes pour se conformer aux nouvelles conditions.
12. Le multiplicateur d'emprunt de la compagnie (sa faculté de recevoir des dépôts), qui peut varier entre dix et vingt-cinq fois le montant de l'actif, est assujéti à l'approbation du surintendant, qui le soumet à un examen annuel.
13. Sous réserve des autorisations réglementaires et des limitations quant aux montants, les pouvoirs des compagnies sont accrus en ce qui a trait aux placements, afin d'élargir leur sphère d'activités dans le domaine des prêts commerciaux, des prêts à la consommation et des baux commerciaux.
14. Des restrictions sont apportées aux placements effectués par les filiales des compagnies ou par leur entremise.
15. Les pouvoirs des compagnies de prêt quant aux placements sont les mêmes que ceux des compagnies de fiducie. Toutefois, les activités d'administrateur de succession et de fiduciaire sont réservées aux seules compagnies de fiducie.
16. Les personnes auxquelles la compagnie fournit des services de fiduciaire jouissent d'une protection accrue.

17. The concept of a "restricted party" is introduced. Restricted parties, in general, are those people who are, or might reasonably be presumed to be, in a position to influence the decision making process in a corporation.
18. Rules against self-dealing are broadened. Self-dealing will include investments, loans and other transactions that involve restricted parties.
19. A market value test, for purposes of valuation, is introduced. A new test is also introduced for lending value for the purposes of mortgage lending.
20. Depositors will be entitled to obtain the annual financial statements of a corporation.
21. The regulatory system is strengthened. The Superintendent (formerly the Registrar) and the Director (a new officer) will have powers to order compliance with the Act. The Superintendent will also have the power to enter compliance programs. The Lieutenant Governor in Council will retain the present powers to seize a corporation.
22. New civil remedies such as tracing or recovery of assets through derivative actions and oppression remedies similar to those in the *Business Corporations Act, 1982* are provided.
23. There will be a compulsory review of the Act by the Legislature not later than 1997.

17. Est institué le concept de la «personne assujettie à des restrictions». Ces personnes, en général, sont celles qui sont en mesure d'exercer une influence dans le processus décisionnel de la compagnie, ou qui seraient normalement présumées l'être.
18. La portée des règles interdisant les opérations internes est élargie. Ces dernières comprennent en outre les placements, prêts et autres opérations qui intéressent les personnes assujetties à des restrictions.
19. L'épreuve fondée sur la valeur marchande est instaurée à des fins d'évaluation. Il y a aussi instauration de l'épreuve de la valeur hypothécable dans le cas des prêts hypothécaires.
20. Les déposants ont le droit d'obtenir les états financiers annuels de la compagnie.
21. Le système réglementaire est renforcé. Le surintendant (autrefois le registraire) et le directeur (nouveau fonctionnaire) sont dotés des moyens de faire observer la présente loi. Le surintendant peut aussi instaurer des programmes d'adhésion volontaire. Le lieutenant-gouverneur en conseil conserve sa prérogative actuelle de saisie de la compagnie.
22. De nouveaux recours civils sont prévus, notamment l'exercice du droit de suite ou le recouvrement d'éléments d'actif au moyen de l'action oblique et de recours en cas d'abus, semblables à ceux que prévoit la *Loi de 1982 sur les compagnies*.
23. Une étude obligatoire de la loi par l'Assemblée législative aura lieu au plus tard en 1997.



**Bill 116****1987**

**An Act to revise the  
Loan and Trust Corporations Act**

**Contents**

Part		Sections
I	Interpretation and Application	1-4
II	Incorporation and Instrument of Incorporation	5-13
III	Winding Up, Dissolution and Merger	14-29
IV	Registration	30-39
V	Shares and Shareholders	40-86
VI	Directors and Officers	87-112
VII	Auditors and Financial Statements	113-124
VIII	Books, Records and Returns	125-139
IX	Conflict of Interest	140-152
X	Business and Investments	153-176
XI	Administration	177-191
XII	Enforcement and Civil Remedies	192-212
XIII	Offences and Penalties	213-217
XIV	Miscellaneous and Regulations	218-227
XV	Amendments, Repeals, Commencement, Short title	228-232

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I**

**INTERPRETATION AND APPLICATION**

**Definitions**

**1. In this Act,**

“comptable”  
R.S.O. 1980,  
c. 405

“accountant” means a person who is licensed under the  
*Public Accountancy Act*;

“membre du  
même  
groupe”

“affiliate” means a body corporate that is an affiliate within  
the meaning of subsection 2 (1);

**Projet de loi 116****1987**

**Loi portant révision de la  
Loi sur les compagnies de prêt et de fiducie**

**Table des matières**

Partie	Articles
I Définitions et champ d'application	1-4
II Constitution et acte constitutif	5-13
III Liquidation, dissolution et fusion	14-29
IV Inscription	30-39
V Actions et actionnaires	40-86
VI Administrateurs et dirigeants	87-112
VII Vérificateurs et états financiers	113-124
VIII Livres, dossiers et rapports	125-139
IX Conflits d'intérêts	140-152
X Activités commerciales et placements	153-176
XI Application de la loi	177-191
XII Exécution et recours de nature civile	192-212
XIII Infractions et peines	213-217
XIV Dispositions diverses et règlements	218-227
XV Modifications, abrogations, entrée en vigueur, titre abrégé	228-232

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

**PARTIE I****DÉFINITIONS ET CHAMP D'APPLICATION**

**1** Les définitions qui suivent s'appliquent à la présente loi. Définitions

«acte constitutif» Loi spéciale, charte, lettres patentes ou autre document en vertu duquel une compagnie est constituée ou fusionnée, y compris les modifications y apportées. «instrument of incorporation»

«actif total» Actif d'une compagnie, calculé selon le mode prescrit. Dans le cas d'une compagnie de fiducie, s'entend en outre de la monnaie et des valeurs mobilières qui ont été mises à part aux termes du paragraphe 155 (5). «total assets»

“banque” 1980-81, c. 40 (Can.)	“bank” means a bank named in Schedule A or B to the <i>Bank Act</i> (Canada); ➡
“filiale bancaire de crédit hypothé- caire”	“bank mortgage subsidiary” means a wholly-owned subsidiary of a bank that receives deposits that are guaranteed by the bank and whose investments in mortgages equal at least 85 per cent of its deposits; ▲
“personne morale”	“body corporate” means any body corporate with or without share capital and wherever or however incorporated;
“succursale”	“branch” means an office of a corporation where it offers services to the public or where it provides fiduciary services;
“apport en capital”	“capital base” means the shareholders’ equity of a corporation calculated in the prescribed manner;
“fonds en fiducie collectif”	“common trust fund” means a fund maintained by a trust corporation in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment;
“corpora- tion”	“company” means a body corporate that is not a loan corporation, a trust corporation or a municipality or any local board thereof;
“compagnie”	“corporation” means a loan corporation or a trust corporation whether incorporated in or outside of Ontario; ➡
“dépôt”	“deposit”, in relation to a registered corporation, means money received by it under section 155 and money received by it before the coming into force of section 155 that, had that section been in force when the money was received, would have been received under section 155; ▲
“déposant”	“depositor” means a person who has a deposit in a corporation;
“directeur”	“Director” means the Director appointed under subsection 177 (2);
“compagnie extra- provinciale”	“extra-provincial corporation” means a corporation that was incorporated under the laws of Canada or of any province, other than Ontario, or of any territory of Canada;
“état financier”	“financial statement” means a statement referred to in subsection 120 (1);
“bien immeuble amélioré”	“improved real estate” means real estate,

- «action assortie du droit de vote» Action d'une personne morale d'une catégorie assortie d'un droit de vote absolu, ou d'une catégorie assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»
- «apport en capital» Avoir des actionnaires d'une compagnie, calculé selon le mode prescrit. «capital base»
- «ayant droit» Exécuteur, administrateur successoral, tuteur, syndic, fiduciaire, séquestre ou liquidateur, ou curateur à la personne ou aux biens d'une personne frappée d'incapacité mentale. «personal representative»
- «banque» Banque désignée à l'annexe A ou B de la *Loi sur les banques* (Canada). «bank» 1980-1981, chap. 40 (Can.)
- «bien immeuble amélioré» Bien immeuble : «improved real estate»
- a) sur lequel est érigé un bâtiment utilisé ou propre à servir à des fins domiciliaires, financières, commerciales, industrielles, éducatives, professionnelles, récréatives, institutionnelles ou religieuses, ou à des fins de bienfaisance;
  - b) sur lequel est en voie de construction ou sur le point de l'être un bâtiment propre à servir à des fins domiciliaires, financières, commerciales, industrielles, éducatives, professionnelles, récréatives, institutionnelles ou religieuses, ou à des fins de bienfaisance;
  - c) qui sert effectivement à une exploitation agricole;
  - d) qui est un terrain vague dans les limites d'une municipalité et dont les utilisations sont restreintes, notamment par les règlements relatifs au zonage, à des fins commerciales, industrielles ou domiciliaires.
- «biens immeubles» S'entend notamment des maisons, dépendances, terres, loyers et héritages, soit en franche ou en autre tenure, corporels ou incorporels, des tenures à bail et de la partie indivise de ces biens, de même que de tous les droits et domaines qui s'y rattachent, à l'exclusion des hydrocarbures, minéraux ou agrégats souterrains. «real estate»
- «compagnie» Compagnie de prêt ou de fiducie constituée en Ontario ou en dehors de cette province. «corporation»

- (a) on which there exists a building used or capable of being used for residential, financial, commercial, industrial, educational, professional, institutional, religious, charitable or recreational purposes,
- (b) on which a building capable of being used for residential, financial, commercial, industrial, professional, institutional, educational, religious, charitable or recreational purposes is being or is about to be constructed,
- (c) on which *bona fide* farming operations are being conducted, or
- (d) vacant land within a municipality that is restricted by law in its use to commercial, industrial or residential purposes by zoning or otherwise;

“acte  
constitutif”

“instrument of incorporation” means the special Act, charter, letters patent or other document incorporating or amalgamating a corporation and includes all amendments thereto;

“la loi de  
l’Ontario”

“law of Ontario” includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;

“valeur  
hypothé-  
cable”

“lending value”, in relation to real estate, means the market value of the real estate reduced by such amounts as are attributable to contingencies or assumptions the occurrence of which is remote and that have increased the market value of the real estate, multiplied by the lesser of,

- (a) 75 per cent, or
- (b) such percentage less than 75 per cent as the corporation has determined in accordance with its prudent investment standards to be appropriate in the circumstances;

“compagnie  
de prêt”

“loan corporation” means a body corporate incorporated or operated for the purpose of borrowing money from the public by receiving deposits and lending or investing such money but does not include a bank, a bank mortgage subsidiary, an insurance corporation, a trust corporation, a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act* or an issuer registered under the *Investment Contracts Act*;



- «compagnie de fiducie» Personne morale constituée ou exploitée aux fins d'offrir ses services au public en tant que fiduciaire, dépositaire, mandataire, exécuteur testamentaire, administrateur successoral, séquestre, liquidateur, cessionnaire, tuteur aux biens d'un enfant mineur ou curateur aux biens d'une personne frappée d'incapacité mentale et aux fins de recevoir les dépôts du public et d'effectuer le prêt ou le placement de ces dépôts. «trust corporation»
- «compagnie de prêt» Personne morale constituée ou exploitée aux fins d'effectuer des emprunts auprès du public en recevant des dépôts pour ensuite prêter ou placer les sommes reçues. Sont exclues de cette définition les banques, les filiales bancaires de crédit hypothécaire, les compagnies d'assurances, les compagnies de fiducie, les caisses populaires et les *credit unions* constituées ou enregistrées en vertu de la *Loi sur les caisses populaires et les credit unions*, ainsi que les compagnies de placement inscrites aux termes de la *Loi sur les contrats de placement*. «loan corporation»  
L.R.O. 1980, chap. 102, 221
- «compagnie extraprovinciale» Compagnie constituée en vertu des lois du Canada, d'une province autre que l'Ontario, ou d'un territoire du Canada. «extra-provincial corporation»
- «compagnie inscrite» Compagnie inscrite aux termes de la présente loi. «registered corporation»
- «compagnie provinciale» Compagnie constituée en vertu de la loi de l'Ontario. «provincial corporation»
- «compagnie qui fait appel au public» Compagnie dont les valeurs mobilières font l'objet d'un appel au public au sens du paragraphe 2 (9) et qui n'est pas réputée avoir cessé de faire appel au public en vertu d'une ordonnance de la Commission des valeurs mobilières de l'Ontario. «offering corporation»
- «comptable» Personne qui est titulaire d'un permis délivré en vertu de la *Loi sur les experts-comptables*. «accountant»  
L.R.O. 1980, chap. 405
- «conjoint» Personne avec laquelle une personne du sexe opposé est mariée ou avec laquelle elle vit dans une union conjugale hors du mariage. «spouse»
- «corporation» Personne morale autre qu'une compagnie, une municipalité ou un conseil local d'une municipalité. «company»
- «déposant» Titulaire d'un dépôt auprès d'une compagnie. «depositor»
- «dépôt» En ce qui concerne une compagnie inscrite, les sommes d'argent qu'elle reçoit en vertu de l'article 155, ainsi que les sommes qu'elle a reçues avant l'entrée en vigueur «deposit»



“valeur  
marchande”

“market value” means the most probable price that would be obtained for property in an arm’s length sale in an open market under conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and willingly;

“ministre”

“Minister” means the Minister of Financial Institutions or other such member of the Executive Council to whom the administration of this Act may be assigned;

“ministère”

“Ministry” means the Ministry of the Minister;

“hypo-  
thèque”

“mortgage” includes a charge or hypothec;

“compagnie  
qui fait appel  
au public”

“offering corporation” means a corporation that is offering its securities to the public within the meaning of subsection 2 (9) and that is not the subject of an order of the Ontario Securities Commission deeming it to have ceased to be offering its securities to the public;

“dirigeant”

“officer” means the chairman and any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager and any other person designated an officer by by-law or by resolution of the directors and any other individual who performs functions for the corporation similar to those normally performed by an individual occupying any such office;

“ayant droit”

“personal representative” means an executor, administrator, guardian, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;

“prescrit”

“prescribed” means prescribed by the regulations;


“établissement  
principal”

“principal place of business” means,

- (a) in the case of a provincial corporation, the place in Ontario designated in its instrument of incorporation as its head office or as its principal place of business, and
- (b) in the case of a registered extra-provincial corporation, the place in Ontario designated in its registration as its principal place of business;

“compagnie  
provinciale”

“provincial corporation” means a corporation incorporated under the law of Ontario;

de cet article et qui auraient été reçues en vertu de celui-ci s'il avait été en vigueur au moment de la réception de ces sommes. 



«directeur» Le directeur nommé en vertu du paragraphe 177 (2). «Director»

«dirigeant» Le président et le vice-président du conseil d'administration, le président, le vice-président, le secrétaire, le secrétaire adjoint, le trésorier, le trésorier adjoint et le directeur général de la compagnie, et la personne désignée en tant que dirigeant par un règlement intérieur ou une résolution des administrateurs. S'entend en outre du particulier qui remplit auprès de la compagnie des fonctions semblables aux fonctions normalement exercées par le titulaire d'un de ces postes. «officer»

«établissement principal» S'entend : «principal place of business»

- a) dans le cas de la compagnie provinciale, de l'endroit précis de l'Ontario qui figure à l'acte constitutif de la compagnie comme étant celui de son siège social ou de son établissement principal;
- b) dans le cas de la compagnie extraprovinciale inscrite, de l'endroit précis de l'Ontario désigné lors de son inscription comme étant celui de son établissement principal.

«état financier» État visé au paragraphe 120 (1). «financial statement»

 «filiale bancaire de crédit hypothécaire» Filiale en propriété exclusive d'une banque, qui reçoit des dépôts qui sont garantis par la banque et dont les placements hypothécaires s'élèvent à 85 pour cent au moins de ses dépôts.  «bank mortgage subsidiary»

«fonds en fiducie collectif» Fonds tenu par une compagnie de fiducie et constitué de sommes d'argent provenant de diverses successions et fiducies qui lui sont confiées et qui sont réunies dans le but d'en faciliter le placement. «common trust fund»

«hypothèque» S'entend en outre d'une charge et de l'hypothèque en droit civil. «mortgage»

«la loi de l'Ontario» S'entend en outre d'une loi de l'ancienne province du Canada ou du Haut-Canada maintenue en vigueur en tant que loi de l'Ontario, ou refondue ou incorporée à cette dernière. «law of Ontario»

«membre du même groupe» Personne morale qui est membre du même groupe au sens du paragraphe 2 (1). «affiliate»

“biens  
immeubles”

“real estate” includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein but does not include hydrocarbons, minerals or aggregates in or under the ground;

“compagnie  
inscrite”

“registered corporation” means a corporation registered under this Act;

“nominatif  
(nomina-  
tive)”

“registered form”, when applied to a security, means a security that,

- (a) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
- (b) bears a statement that it is in registered form;

“règlements”

“regulations” means the regulations made under this Act;

“résident  
canadien”

“resident Canadian” means an individual who is,

- (a) a Canadian citizen ordinarily resident in Canada,
- (b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
- (c) a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;

1976-77,  
c. 52 (Can.)

“personne  
assujettie à  
des restric-  
tions”

“restricted party” means a person who with respect to a corporation is,

- (a) an officer or director of the corporation,
- (b) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of the corporation,
- (c) a beneficial holder of 10 per cent or more of any class of non-voting shares of the corporation,
- (d) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of an affiliate of the corporation,

«ministère» Le ministère qui relève du ministre.

«Ministry»

«ministre» Le ministre des Institutions financières ou un autre membre du Conseil des ministres à qui l'application de la présente loi peut être confiée.

«Minister»

«nominatif (nominative)» S'il s'agit d'une valeur mobilière, celle qui :

«registered form»


- a) ou bien désigne nommément la personne qui est titulaire de cette valeur ou des droits qui y sont attestés et dont le transfert est susceptible d'être inscrit à un registre des valeurs mobilières;
- b) ou bien porte la mention qu'elle est nominative.

«personne assujettie à des restrictions» S'entend de la personne qui, à l'égard d'une compagnie, est :


«restricted party»

- a) le dirigeant ou l'administrateur de la compagnie;
- b) le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie d'actions de la compagnie assorties du droit de vote;
- c) le détenteur à titre bénéficiaire de 10 pour cent ou plus d'une catégorie d'actions de la compagnie non assorties du droit de vote;
- d) le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie d'actions assorties du droit de vote d'un membre du même groupe que la compagnie;
- e) un membre du même groupe que la compagnie, mais n'est pas sa filiale;
- f) l'employé de la compagnie;
- g) le vérificateur de la compagnie, s'il exerce à titre individuel;
- h) un associé de la société qui est le vérificateur de la compagnie, si cet associé participe effectivement à la vérification de la compagnie;
- i) l'administrateur ou le dirigeant de la personne morale visée aux alinéas b) ou c);



- (e) an affiliate of the corporation other than a subsidiary of the corporation,
- (f) an employee of the corporation,
- (g) an auditor of the corporation, if the auditor is a sole practitioner,
- (h) a partner in the firm who are the corporation's auditors, if the partner is actually engaged in auditing the corporation, 
- (i) a director or officer of a body corporate described in clause (b) or (c),
- (j) a spouse or child of an individual described in clause (a), (b), (c) or (d),
- (k) any relative of an individual described in clause (a), (b), (c) or (d) or of his or her spouse who has the same home as such individual or spouse,



- (l) a body corporate in which a person described in clause (a) or (b) is the beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares,
- (m) a body corporate in which a person described in clause (c), (f), (g), (h), (i) or (j) is the beneficial holder, directly or indirectly, of more than 50 per cent of any class of voting shares, 
- (n) a person designated under section 140 as a restricted party;

“registre de valeurs mobilières”

“securities register” means the register referred to in subsection 127 (1);

“valeur mobilière”

“security” means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation and includes a warrant but does not include a deposit or any instrument evidencing a deposit in a corporation;

“résolution spéciale”

“special resolution” means a resolution that is,

- (a) submitted to a meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amend-



j) le conjoint ou l'enfant du particulier visé aux alinéas a), b), c) ou d);

k) un parent du particulier visé aux alinéas a), b), c) ou d) ou de son conjoint, qui habite avec le particulier ou avec le conjoint;



l) la personne morale dont la personne visée aux alinéas a) ou b) est le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie quelconque d'actions assorties du droit de vote;

m) la personne morale dont la personne visée aux alinéas c), f), g), h), i) ou j) est le détenteur à titre bénéficiaire, directement ou indirectement, de plus de 50 pour cent d'une catégorie quelconque d'actions assorties du droit de vote;



n) la personne désignée en tant que personne assujettie à des restrictions en vertu de l'article 140.

«personne morale» Personne morale avec ou sans capital-actions sans égard au lieu ou au mode de constitution. «body corporate»

«prescrit» Prescrit par les règlements. «prescribed»

«registre de valeurs mobilières» Le registre visé au paragraphe 127 (1). «securities register»

«règlements» Les règlements pris en application de la présente loi. «regulations»

«résident canadien» S'entend : «resident Canadian»

a) du citoyen canadien qui réside ordinairement au Canada;

b) du citoyen canadien qui ne réside pas ordinairement au Canada, mais qui fait partie d'une catégorie prescrite de personnes;

c) d'un résident permanent au sens de la *Loi sur l'immigration de 1976* (Canada) qui réside ordinairement au Canada, à l'exclusion d'un résident permanent qui a résidé de façon ordinaire au Canada pendant plus d'un an après avoir acquis pour la première fois le droit de demander la citoyenneté canadienne. S.C. 1976-1977, chap. 52 (Can.)

«résolution spéciale» Résolution qui est : «special resolution»



ment, at the meeting by at least two-thirds of the votes cast, or

- (b) consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or the shareholder's agent authorized in writing;

"conjoint" "spouse" means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage;

"titre subalterne" "subordinated note" means a note issued under section 158;

"surintendant" "Superintendent" means the Superintendent of Deposit Institutions appointed under this Act;

"actif total" "total assets" means the assets of a corporation calculated in the prescribed manner and, in the case of a trust corporation, includes cash and securities earmarked and set aside under subsection 155 (5);

"compagnie de fiducie" "trust corporation" means a body corporate incorporated or operated for the purpose of offering its services to the public to act as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate or committee of a mentally incompetent person's estate and for the purpose of receiving deposits from the public and of lending or investing such deposits;

"action assortie du droit de vote" "voting share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

Deemed  
affiliation

## 2.—(1) For the purposes of this Act,

- (a) a body corporate shall be deemed to be affiliated with another body corporate if one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person; and

- a) soit proposée à une assemblée des actionnaires de la compagnie convoquée à cette fin et adoptée, avec ou sans amendements, aux deux tiers au moins des voix exprimées;
- b) soit adoptée du consentement écrit de chaque actionnaire de la compagnie habile à voter lors d'une telle assemblée, ou de son mandataire muni d'une autorisation écrite.

«succursale» Bureau de la compagnie, où elle offre des services au public ou fournit des services fiduciaires. «branch»


«surintendant» Le surintendant des institutions de dépôt nommé aux termes de la présente loi. «Superintendent»

«titre subalterne» Titre émis aux termes de l'article 158. «subordinated note»

«valeur hypothécable» Relativement à un bien immeuble, valeur marchande, déduction faite des montants qui tiennent compte des imprévus dont la survenance est improbable ou des prévisions dont la réalisation est improbable, mais qui ont fait augmenter la valeur marchande de l'immeuble, multipliée par le moins élevé des pourcentages suivants : «lending value»

- a) 75 pour cent;
- b) le pourcentage inférieur à 75 pour cent que la compagnie juge approprié dans les circonstances, conformément à ses normes de placements sûrs.



«valeur marchande» Le prix qui serait vraisemblablement obtenu lors de la vente du bien sur le marché libre, intervenue dans les conditions nécessaires pour en assurer l'équité, entre un vendeur et un acheteur prudents, avisés et consentants et n'ayant aucun lien de dépendance.  «market value»

«valeur mobilière» Action d'une catégorie ou d'une série, titre de créance d'une personne morale et certificat qui en atteste l'existence. S'entend en outre du bon de souscription, à l'exclusion du dépôt ou de l'effet qui atteste le dépôt effectué auprès d'une compagnie. «security»

## 2 (1) Pour l'application de la présente loi :

- a) une personne morale est réputée un membre du même groupe qu'une autre si l'une est la filiale de l'autre ou si les deux sont des filiales de la même personne morale ou si une même personne a le contrôle de chacune d'elles;

Personne morale réputée membre du même groupe

- (b) the affiliates of every body corporate shall be deemed to be affiliated with all other bodies corporate with which the body corporate is affiliated.

Deemed  
control

(2) For the purposes of this Act, except sections 59 to 61, a body corporate shall be deemed to be controlled by a person if,

- (a) securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are held other than by way of security only by or for the benefit of that person; and
- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.

Deemed  
holding body  
corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be the holding body corporate of all of its subsidiaries.



Deemed  
subsidiaries

(4) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if,

- (a) it is controlled by,
  - (i) that other,
  - (ii) that other and one or more bodies corporate each of which is controlled by that other, or
  - (iii) two or more bodies corporate each of which is controlled by that other; or
- (b) it is a subsidiary within the meaning of clause (a) of a body corporate that is that other's subsidiary.

Beneficial  
ownership of  
securities

(5) For the purposes of this Act, a person shall be deemed to own beneficially securities that are beneficially owned by a body corporate controlled by the person.

"Down-  
stream"  
investments

(6) For the purposes of this Act, where a person owns beneficially, directly or indirectly, shares of a body corporate, the person shall be deemed to own beneficially that proportion of shares of every other body corporate that is owned beneficially, directly or indirectly, by the first-mentioned body corporate, that is equal to the proportion of shares of the first-mentioned body corporate that is owned beneficially, directly or indirectly, by the person.

- b) les membres du même groupe qu'une personne morale sont réputés membres des mêmes groupes que toutes les autres personnes morales avec lesquelles celle-ci est elle-même membre du même groupe.

(2) Pour l'application de la présente loi, à l'exception des articles 59 à 61, une personne morale est réputée être sous le contrôle d'une personne si :

Contrôle  
réputé

- a) d'une part, celle-ci détient ou est bénéficiaire autrement qu'à titre de garantie seulement, de valeurs mobilières de la personne morale qui comportent plus de 50 pour cent des voix qui peuvent être exprimées pour élire les administrateurs;
- b) d'autre part, le nombre de voix rattachées à ces valeurs mobilières suffit à élire une majorité d'administrateurs de cette personne morale.

(3) Pour l'application de la présente loi, une personne morale est réputée la personne morale mère à l'égard de chacune de ses filiales.

Personne  
morale mère  
réputée

➡  
(4) Pour l'application de la présente loi, une personne morale est réputée la filiale d'une autre si, selon le cas :

Filiales  
réputées

- a) elle est sous le contrôle :

- (i) de cette autre personne morale,
- (ii) de cette autre personne morale et d'une ou de plusieurs personnes morales qui sont toutes sous le contrôle de cette autre personne morale,
- (iii) de deux personnes morales ou plus qui sont toutes sous le contrôle de cette autre personne morale;

- b) elle est la filiale au sens de l'alinéa a) d'une personne morale qui est elle-même la filiale de cette autre personne morale.

(5) Pour l'application de la présente loi, une personne est réputée propriétaire à titre bénéficiaire de valeurs mobilières dont une personne morale qui est sous le contrôle de cette personne est propriétaire à titre bénéficiaire.

Propriété  
à titre  
bénéficiaire  
de valeurs  
mobilières


(6) Pour l'application de la présente loi, la personne propriétaire à titre bénéficiaire, directement ou indirectement, d'actions d'une personne morale, est réputée propriétaire à

Placements  
en aval

Choice of  
rule

(7) Where subsections (5) and (6) may apply to a person, only the subsection under which the person is deemed to own beneficially the most securities applies to the person.

Exclusion

(8) Securities owned by a corporation shall not be considered in determining a person's deemed beneficial ownership of securities under subsection (5) or (6). 

Offering  
securities  
to public

(9) For the purposes of this Act, a body corporate is offering its securities to the public only where,

- (a) in respect of any of its securities, a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof or a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Ontario Securities Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a body corporate that has fewer than fifteen security holders, the Ontario Securities Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as it may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

Related  
persons

(10) For the purposes of sections 62 to 69, a person shall be deemed to be related to,

- (a) every company or corporation of which the person beneficially owns, directly or indirectly, voting shares carrying more than 50 per cent of the voting rights attached to all voting securities of the company or corporation for the time being outstanding;



titre bénéficiaire d'un nombre d'actions de chacune des autres personnes morales dont la personne morale citée en premier lieu est propriétaire à titre bénéficiaire, directement ou indirectement, qui est proportionnel au nombre d'actions de cette dernière que cette personne détient au même titre.

(7) Si les paragraphes (5) et (6) peuvent s'appliquer à une personne, seul le paragraphe en vertu duquel la personne est réputée propriétaire à titre bénéficiaire du plus grand nombre de valeurs mobilières s'applique à elle.

Choix de la  
règle  
pertinente

(8) Dans la détermination des valeurs mobilières dont une personne est réputée propriétaire à titre bénéficiaire aux termes des paragraphes (5) ou (6), il n'est pas tenu compte de valeurs mobilières dont une compagnie est propriétaire. 🏠

Exclusion

(9) Pour l'application de la présente loi, une personne morale ne fait appel au public que dans l'un des cas suivants :

Appel au  
public

- a) elle a déposé à l'égard de ses valeurs mobilières, un prospectus, un exposé des faits pertinents ou une circulaire d'offre d'achat en bourse visant à la mainmise ou une circulaire d'offre de l'émetteur en vertu de la *Loi sur les valeurs mobilières* ou d'une loi que celle-ci remplace, ou elle a déposé un prospectus en vertu de *The Corporations Information Act*, qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1960 ou d'une loi que celle-ci remplace, tant que sont en circulation ces mêmes valeurs mobilières ou celles qui résultent de leur conversion;
- b) certaines de ses valeurs mobilières ont été, à un moment donné depuis le 1<sup>er</sup> mai 1967, officiellement cotées à une bourse de l'Ontario reconnue par la Commission des valeurs mobilières de l'Ontario, sans égard à la date de leur inscription.

L.R.O. 1980,  
chap. 466

Toutefois, à la demande d'une personne morale comportant moins de quinze détenteurs de ses valeurs mobilières, lorsque la Commission est convaincue que le public n'en subira aucun préjudice, elle peut rendre une ordonnance, aux conditions qu'elle fixe, selon laquelle la personne morale est réputée avoir cessé de faire appel au public.

(10) Pour l'application des articles 62 à 69, une personne est réputée liée :

Personnes  
liées

- a) à la corporation ou compagnie à l'égard de laquelle elle est, directement ou indirectement, propriétaire à titre bénéficiaire d'actions comportant plus de 50 pour cent des droits de vote sur l'ensemble des valeurs mobilières de la corporation ou compagnie avec droit de vote en circulation;



- (b) every partner of the person;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity;
- ➡ (d) the spouse and every child of the person;
- (e) every relative of the person or of his or her spouse who has the same home as the person. ➡

Application  
of Act

**3.—**(1) This Act applies to all corporations unless specifically limited to provincial corporations.

Idem

(2) Where there is a conflict between a provision of the instrument of incorporation of a provincial corporation or of any special Act of Ontario in relation to any corporation and a provision of this Act or the regulations, the provision of this Act or the regulations, as the case may be, prevails.

Non-  
application  
of Act

**4.** This Act does not apply to a body corporate that is authorized, constituted or operated for the purpose of lending money on the security of real estate or for the purpose of investing money in mortgages, where the body corporate borrows only by way of,



- (a) loans from banks, corporations, insurance companies or credit unions or caisses populaires incorporated or registered under the *Credit Unions and Caisses Populaires Act*; or ➡
- (b) the issue of debentures, notes or like obligations of an amount not less than \$100,000 each to any one person on the person's account, whereby the body corporate is not obligated or cannot by demand of the holder be obligated to repay the money secured by the debenture, note or obligation within five years from the date of its issue.



R.S.O. 1980,  
c. 102

## PART II

### INCORPORATION AND INSTRUMENT OF INCORPORATION

Incorporation  
of a loan  
corporation

**5.** The Lieutenant Governor in Council may incorporate a loan corporation by the issue of letters patent upon the application of any one or more persons.

- b) à chacun des associés de cette personne;
- c) à la fiducie ou à la succession sur laquelle la personne a un droit important à titre bénéficiaire ou à l'égard de laquelle elle remplit les fonctions de fiduciaire ou des fonctions analogues;  

- d) au conjoint et à chaque enfant de cette personne;
- e) à chaque parent de la personne ou de son conjoint, qui habite avec la personne. 

**3** (1) La présente loi s'applique à toutes les compagnies, sauf les cas où elle ne vise expressément que les compagnies provinciales.


Application de la présente loi

(2) La disposition pertinente de la présente loi ou des règlements prime en cas de conflit entre celle-ci et la disposition de l'acte constitutif d'une compagnie provinciale ou d'une loi spéciale de l'Ontario portant sur une compagnie.

Idem

**4** La présente loi ne s'applique pas à la personne morale constituée ou exploitée dans le but de consentir des prêts de sommes d'argent garantis par des sûretés immobilières ou d'effectuer des placements sur hypothèque, si cette personne morale effectue des emprunts uniquement au moyen :

Non-application de la loi

- a) d'emprunts effectués auprès de banques, de compagnies, de compagnies d'assurance ou de caisses populaires ou de *credit unions* constitués ou enregistrés en vertu de la *Loi sur les caisses populaires et les credit unions*; 
- b) de l'émission de débentures, billets ou autres titres de créance d'un montant d'au moins 100 000 \$ chacun au nom et pour le compte d'une seule personne, qui n'obligent pas la personne morale à rembourser la somme garantie dans les cinq ans de leur émission et qui ne l'obligent pas à ce faire à la demande du titulaire.

L.R.O. 1980, chap. 102

## PARTIE II

### CONSTITUTION ET ACTE CONSTITUTIF

**5** Le lieutenant-gouverneur en conseil peut constituer une compagnie de prêt par la délivrance de lettres patentes à la demande d'une ou de plusieurs personnes.

Constitution d'une compagnie de prêt

Application  
for  
incorporation

6.—(1) An application for the issue of letters patent to incorporate a loan corporation shall follow the prescribed form and shall be filed with the Superintendent together with,

- (a) evidence showing that at least \$5,000,000 of common shares will be subscribed for in good faith at the time the letters patent are issued;
- (b) an application to be registered as a loan corporation; and
- (c) such other information, material and evidence as the form may specify.


Notices,  
additional  
information

(2) The Superintendent, upon the filing of an application for the issue of letters patent to incorporate a loan corporation,

- (a) shall require notice of the application and notice of the application for registration, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business is to be located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Restriction  
on issue of  
letters  
patent

7. Letters patent for the incorporation of a loan corporation shall not be issued unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) there exists a public benefit and advantage for establishing an additional loan corporation; 
- (b) the proposed management is fit, both as to character and as to competence, to manage a loan corporation;
- (c) each person subscribing for 10 per cent or more of any class of shares of the proposed corporation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares;

**6** (1) La demande de délivrance de lettres patentes aux fins de constituer une compagnie de prêt est rédigée selon la formule prescrite, déposée auprès du surintendant et accompagnée :

Demande de constitution

- a) d'une preuve que des actions ordinaires seront souscrites de bonne foi, lors de la délivrance des lettres patentes, pour un montant d'au moins 5 000 000 \$;
- b) d'une demande d'inscription à titre de compagnie de prêt;
- c) des autres renseignements, documents et pièces justificatives précisés dans la formule.

(2) Lors du dépôt d'une demande de délivrance de lettres patentes aux fins de constituer une compagnie de prêt, le surintendant :

Avis, renseignements supplémentaires

- a) doit exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où sera situé l'établissement principal de la compagnie, un avis de la demande, ainsi qu'un avis de la demande d'inscription qui reproduit tous les renseignements que le surintendant précise;
- b) peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces justificatives qu'il juge nécessaires.

**7** Il ne doit pas être délivré de lettres patentes pour la constitution d'une compagnie de prêt, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les conditions suivantes sont réunies :

Restrictions portant sur la délivrance de lettres patentes

- a) qu'il est avantageux pour le public d'établir une nouvelle compagnie de prêt;
- b) que les membres proposés pour assumer la direction de la compagnie projetée sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie de prêt;
- c) que chacune des personnes qui souscrit 10 pour cent ou plus des actions d'une catégorie de la compagnie projetée est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie;

- (d) each proposed director is fit, both as to character and as to competence, to be a director of a loan corporation;
- (e) the proposed plan of operations is feasible; and
- (f) the proposed corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for incorporation.

Contents of  
letters patent

**8.** The letters patent of a loan corporation shall set out,

- (a) the name of the corporation;
- (b) the municipality or geographic township in Ontario where the principal place of business is to be located;
- (c) the classes and any maximum number of shares that the corporation is authorized to issue and the rights, privileges, restrictions and conditions attaching to each class of shares; and
- (d) the full name, address of residence, citizenship and occupation of,
  - ➡ (i) each of the first directors of the corporation,
  - (ii) every person who subscribed for 10 per cent or more of any class of shares of the corporation, and
  - (iii) each of the applicants. ⬆

Day of  
incorporation

**9.** A provincial loan corporation comes into existence on the day set out in its letters patent.

Supple-  
mentary  
letters  
patent

**10.—(1)** On the application of a provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation,

- (a) to change its name;
- (b) in the case of a provincial loan corporation, to continue it as a trust corporation;
- (c) in the case of a provincial trust corporation, to continue it as a loan corporation; or



- d) que chacun des futurs administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie de prêt;
- e) que le programme d'exploitation projeté est réalisable;
- f) que la compagnie projetée se propose d'offrir au public dès sa constitution ou dans un délai raisonnable par la suite, les services énoncés dans la demande de constitution.

**8** Les lettres patentes d'une compagnie de prêt énoncent :

Teneur des  
lettres  
patentes

- a) sa dénomination sociale;
- b) la municipalité ou le canton en Ontario où sera situé son établissement principal;
- c) les catégories et le nombre maximal d'actions que la compagnie est autorisée à émettre ainsi que les droits, privilèges, restrictions et conditions rattachés à chaque catégorie;
- d) les nom et prénoms au complet, l'adresse personnelle, la citoyenneté ainsi que la profession de :

(i) chacun des premiers administrateurs de la compagnie,

(ii) chaque personne qui a souscrit 10 pour cent ou plus des actions d'une catégorie,

(iii) chacun des auteurs de la demande.

**9** La compagnie de prêt provinciale prend naissance à la date indiquée dans ses lettres patentes.

Date de  
constitution

**10** (1) Le lieutenant-gouverneur en conseil peut, à la demande d'une compagnie provinciale, délivrer des lettres patentes supplémentaires aux fins d'apporter à l'acte constitutif de la compagnie les modifications suivantes :

Lettres patentes supplé-  
mentaires

- a) le changement de sa dénomination sociale;
- b) s'il s'agit d'une compagnie de prêt provinciale, sa prorogation en tant que compagnie de fiducie;
- c) s'il s'agit d'une compagnie de fiducie provinciale, sa prorogation en tant que compagnie de prêt;





- (d) to change the municipality or geographic township in which the principal place of business of the corporation is located.



Idem

(2) On the application of the corporations involved, the Lieutenant Governor in Council may issue letters patent to amalgamate the corporations and continue them as one provincial corporation.

Idem

(3) On the application of any provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation to,

- (a) add, change or remove any maximum number of shares that the corporation is authorized to issue;
- (b) create new classes of shares;
- (c) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;
- (d) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (e) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (f) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (g) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series; and
- (h) revoke, diminish or enlarge any authority conferred under clauses (f) and (g).

Special  
resolution

(4) No application shall be made under subsection (1) or (3) unless it has been authorized by a special resolution of the provincial corporation.

- ↓
- d) le transfert de l'établissement principal de la compagnie dans une autre municipalité ou un autre canton. ↑

(2) À la demande des compagnies intéressées, le lieutenant-gouverneur en conseil peut délivrer des lettres patentes aux fins de la fusion de ces compagnies et de leur prorogation comme une seule compagnie provinciale. Idem

(3) À la demande d'une compagnie provinciale, le lieutenant-gouverneur en conseil peut délivrer des lettres patentes supplémentaires aux fins d'apporter à l'acte constitutif de la compagnie les modifications suivantes : Idem

- a) ajouter, modifier ou supprimer un nombre maximal d'actions que la compagnie est autorisée à émettre;
- b) créer de nouvelles catégories d'actions;
- c) changer la désignation de la totalité ou d'une partie de ses actions et ajouter, modifier ou supprimer tous droits, privilèges, restrictions et conditions, y compris le droit à des dividendes accumulés, concernant la totalité ou une partie de ses actions, émises ou non;
- d) changer le nombre d'actions, émises ou non, d'une catégorie ou d'une série ou les changer de catégorie ou de série;
- e) diviser en séries une catégorie d'actions, émises ou non, en indiquant le nombre d'actions par série, ainsi que les droits, privilèges, restrictions ou conditions qui s'y rattachent;
- f) autoriser les administrateurs à diviser en séries une catégorie d'actions non émises, en indiquant le nombre d'actions par série, ainsi que les droits, privilèges, restrictions et conditions qui s'y rattachent;
- g) autoriser les administrateurs à modifier les droits, privilèges, restrictions et conditions rattachés aux actions non émises d'une série;
- h) révoquer ou modifier les autorisations données aux termes des alinéas f) et g).

(4) Aucune demande ne doit être présentée en vertu des paragraphes (1) ou (3) à moins d'avoir été autorisée par résolution spéciale de la compagnie provinciale. Résolution spéciale

## Application

(5) An application for the issue of supplementary letters patent shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify and, in the case of an application under clause (1) (b), evidence that,

- (a) the stated capital account or accounts of the corporation is or are equal to or exceed \$5,000,000 and the capital base of the corporation equals or exceeds \$10,000,000; or
- (b) one or more responsible applicants has subscribed in good faith for shares of the corporation so that, when issued and added to the stated capital account or accounts, the stated capital account or accounts will equal or exceed \$10,000,000 and the capital base will equal or exceed \$10,000,000.

## Idem

(6) An application for the issue of supplementary letters patent under clause (1) (b) or (c) shall be accompanied by an application for registration as a trust corporation or loan corporation, as the case may be.

Notice,  
additional  
information

(7) The Superintendent, upon the filing of an application for supplementary letters patent,

- (a) may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business in Ontario of the corporation is located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Rejection of  
application

(8) Supplementary letters patent shall not be issued,

- (a) to continue a provincial loan corporation as a provincial trust corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
  - (i) there exists a public benefit and advantage for continuing the corporation as a trust corporation,

(5) La demande de délivrance de lettres patentes supplémentaires est rédigée selon la formule prescrite et est déposée auprès du surintendant, accompagnée des renseignements, documents et pièces justificatives qui sont précisés dans la formule, et dans le cas de la demande aux termes de l'alinéa (1) b), de la preuve que l'une des conditions suivantes est remplie :

Demande

- a) le compte capital déclaré de la compagnie, ou le total de ces comptes, atteint ou dépasse 5 000 000 \$, et son apport en capital atteint ou dépasse 10 000 000 \$;
- b) l'un ou plusieurs des auteurs de la demande, dignes de confiance, ont de bonne foi souscrit des actions de la compagnie de sorte que le montant émis, ajouté à la fois au compte ou aux comptes capital déclaré et à l'apport en capital, donnera un produit qui atteint ou dépasse 10 000 000 \$ dans chaque cas.

(6) La demande de délivrance de lettres patentes supplémentaires aux termes des alinéas (1) b) ou c) est accompagnée d'une demande d'inscription en tant que compagnie de fiducie ou compagnie de prêt, selon le cas.

Idem

(7) Lors du dépôt d'une demande de lettres patentes supplémentaires, le surintendant :

Avis, renseignements supplémentaires

- a) peut exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est situé l'établissement principal de la compagnie, un avis qui reproduit les renseignements que précise le surintendant;
- b) peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces justificatives qu'il juge nécessaires.

(8) Des lettres patentes supplémentaires ne sont pas délivrées aux fins :

Rejet de la demande

- a) de proroger une compagnie de prêt provinciale en compagnie de fiducie provinciale, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les conditions suivantes sont réunies :

- (i) qu'il est avantageux pour le public que la compagnie soit prorogée en compagnie de fiducie,

- (ii) the management of the applicant is fit, both as to character and as to competence, to manage a trust corporation,
  - (iii) each person subscribing for 10 per cent or more of any class of shares of the corporation or who holds, or upon the issue of the supplementary letters patent will hold, 10 per cent or more of any class of its shares can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - (iv) each director of the applicant is fit, both as to character and as to competence, to be a director of a trust corporation,
  - (v) the proposed plan of operations as a trust corporation is feasible, and
  - (vi) the corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for supplementary letters patent;
- (b) to continue a provincial trust corporation as a provincial loan corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that arrangements have been made to transfer to another registered trust corporation the business in relation to which the provincial trust corporation acted as a fiduciary and such arrangements are adequate to protect the persons in relation to which the provincial trust corporation acted in a fiduciary capacity;
- ↓
- (c) to change the municipality or geographic township in which the principal place of business of a provincial corporation is located unless it is shown to the satisfaction of the Lieutenant Governor in Council that the proposed plan of operations in the new location is feasible.      ▲

Deposits

(9) Clause (8) (b) does not apply so as to require a trust corporation that has applied to be continued as a loan corporation to transfer money received by it as deposits.



- (ii) que les membres de la direction de l'auteur de la demande sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie de fiducie,
- (iii) que chaque personne qui souscrit 10 pour cent ou plus des actions d'une catégorie, ou qui détient ou, lors de la délivrance des lettres patentes supplémentaires, détiendra 10 pour cent ou plus des actions d'une catégorie, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
- (iv) que chacun des administrateurs de l'auteur de la demande est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie de fiducie,
- (v) que le programme d'exploitation de la compagnie en tant que compagnie de fiducie est réalisable,
- (vi) que la compagnie se propose d'offrir au public, dès sa constitution ou dans un délai raisonnable par la suite, les services énoncés dans la demande de lettres patentes supplémentaires;
- b) de proroger une compagnie de fiducie provinciale en compagnie de prêt provinciale, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les arrangements qui ont été pris afin de céder les activités qu'elle exerce en qualité de fiduciaire à une autre compagnie de fiducie inscrite suffisent à assurer la protection des personnes qu'elle représentait en cette qualité;
- ➡ c) de transférer l'établissement principal d'une compagnie provinciale dans une autre municipalité ou un autre canton, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que son programme d'exploitation projeté au nouvel endroit est réalisable. ➡

(9) L'alinéa (8) b) n'a pas pour effet d'obliger une compagnie de fiducie qui demande sa prorogation en compagnie de prêt à effectuer le transfert des sommes d'argent qu'elle a reçues à titre de dépôts.

Dépôts



Idem

(10) Where supplementary letters patent have been issued to continue a loan corporation as a trust corporation,

- (a) deposits received by the loan corporation under clause 155 (1) (a) shall be deemed to be deposits received under clause 155 (2) (a); and
- (b) deposits received by the loan corporation under clause 155 (1) (b) shall be deemed to be deposits received under clause 155 (2) (b).

Idem

(11) Where supplementary letters patent have been issued to continue a trust corporation as a loan corporation,

- (a) deposits received by the trust corporation under clause 155 (2) (a) shall be deemed to be deposits received under clause 155 (1) (a); and
- (b) deposits received by the trust corporation under clause 155 (2) (b) shall be deemed to be deposits received under clause 155 (1) (b).

Names

**11.**—(1) Subject to subsection (2), letters patent or supplementary letters patent shall not be issued to a corporation that has a name,

- (a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;
- (b) that is the same or similar to,
  - (i) the name of a known,
    - (A) body corporate,
    - (B) trust,
    - (C) association,
    - (D) partnership,
    - (E) sole proprietorship, or
    - (F) individual,

whether in existence or not, or

(10) Lorsque des lettres patentes supplémentaires ont été Idem  
délivrées aux fins de proroger une compagnie de prêt en une  
compagnie de fiducie :

- a) les dépôts reçus par la compagnie de prêt en vertu  
de l'alinéa 155 (1) a) sont réputés reçus en vertu de  
l'alinéa 155 (2) a);
- b) les dépôts reçus par la compagnie de prêt en vertu  
de l'alinéa 155 (1) b) sont réputés reçus en vertu de  
l'alinéa 155 (2) b).

(11) Lorsque des lettres patentes supplémentaires ont été Idem  
délivrées aux fins de proroger une compagnie de fiducie en  
compagnie de prêt :

- a) les dépôts reçus par la compagnie de fiducie en  
vertu de l'alinéa 155 (2) a) sont réputés reçus en  
vertu de l'alinéa 155 (1) a);
- b) les dépôts reçus par la compagnie de fiducie en  
vertu de l'alinéa 155 (2) b) sont réputés reçus en  
vertu de l'alinéa 155 (1) b).

**11** (1) Sous réserve du paragraphe (2), il n'est pas délivré Idem  
de lettres patentes ou de lettres patentes supplémentaires à la  
compagnie dont la dénomination sociale :

- a) reproduit un mot ou une expression prohibés par la  
présente loi ou les règlements, ne les reproduit pas  
alors qu'ils sont requis ou qui pour un autre motif  
n'est pas conforme à la présente loi ou aux règle-  
ments;
- b) est identique ou semblable :

(i) à la dénomination sociale ou au nom :

- (A) d'une personne morale,
- (B) d'une fiducie,
- (C) d'une association,
- (D) d'une société en nom collectif,
- (E) d'une entreprise personnelle,
- (F) d'un particulier,

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive;  
or

- (c) that in the case of a trust corporation does not include,

- (i) “trust” or “fiducie” together with a designation such as “corporation”, “company”, “compagnie”, “limited”, “limitée” or “société”, or

- (ii) “trustco”.

Idem

(2) Notwithstanding clause (1) (b), a corporation may have a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Bilingual  
names

(3) Subject to this Act and the regulations, a corporation may have a name in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated by any such name.

Change of  
name if  
objectionable

(4) Where, through inadvertence or otherwise, a provincial corporation has obtained a name contrary to this section, the Lieutenant Governor in Council, on the recommendation of the Superintendent, may issue supplementary letters patent changing the name of the corporation to a name specified in the supplementary letters patent.

Hearing

(5) Before making a recommendation under subsection (4), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Decision is  
final

**12.—**(1) The decision of the Lieutenant Governor in Council to approve or reject an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 145 is final and not subject to appeal, but nothing in this subsection prevents an applicant from making a new application.

qui est connu, qu'il existe ou non,

- (ii) à la dénomination sociale ou au nom connus sous lesquels une personne morale, une fiducie, une association, une société en nom collectif, une entreprise personnelle ou un particulier s'identifie ou exerce ses activités commerciales,

si l'emploi de la dénomination sociale ou du nom peut s'avérer trompeur;

- c) dans le cas d'une compagnie de fiducie, ne reproduit pas les mots :

- (i) soit «trust» ou «fiducie», ainsi qu'une désignation telle que «corporation», «company», «compagnie», «limited», «limitée» ou «société»,

- (ii) soit «trustco».

(2) Malgré l'alinéa (1) b), la compagnie qui s'est conformée aux conditions prescrites peut porter la dénomination sociale énoncée au sous-alinéa (1) b) (i) ou (ii). Idem

(3) Sous réserve de la présente loi et des règlements, la compagnie peut avoir une dénomination sociale anglaise, une dénomination sociale française, une dénomination sociale dans chacune de ces deux langues ou une dénomination sociale qui présente une combinaison des deux langues. La compagnie peut être légalement désignée par n'importe laquelle de ses dénominations sociales. Dénominations sociales bilingues

(4) Le lieutenant-gouverneur en conseil peut, sur la recommandation du surintendant, délivrer à la compagnie provinciale qui, par mégarde ou autrement, s'est vu attribuer une dénomination sociale non conforme aux dispositions du présent article, des lettres patentes supplémentaires modifiant sa dénomination sociale pour y substituer celle qui figure aux lettres patentes supplémentaires. Modification d'une dénomination sociale contestable

(5) Avant de faire la recommandation visée au paragraphe (4), le surintendant donne à la compagnie l'occasion de se faire entendre. Audience

**12** (1) Est définitive et sans appel la décision du lieutenant-gouverneur en conseil d'approuver ou de rejeter une demande de lettres patentes, de lettres patentes supplémentaires, de décret de reconstitution ou une demande de consentement aux termes de l'article 145. Il est toutefois loisible à l'auteur de la demande d'en présenter une nouvelle. Décision définitive

Notice

(2) Where the Lieutenant Governor in Council approves or rejects an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 145, the Superintendent shall forthwith notify the applicant in writing.

Powers of  
corporation

**13.** Subject to this Act and any terms, conditions and restrictions imposed on its registration, a provincial corporation,

- (a) has the capacity and the rights, powers and privileges of a natural person; and
- (b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit.

### PART III

#### WINDING UP, DISSOLUTION AND MERGER

Winding up  
R.S.O. 1980,  
c. 95

**14.** Except where Part VI of the *Corporations Act* is inconsistent with this Act, that Part applies to the winding up of a provincial corporation, substituting the word "Superintendent" for the word "Minister".

Cancellation  
for non-use

**15.**—(1) Where a provincial corporation fails to go into *bona fide* operation within two years of the date of incorporation or having done so it ceases *bona fide* operation for a period of two consecutive years, the Lieutenant Governor in Council, on the recommendation of the Superintendent and upon such terms and conditions as the Lieutenant Governor in Council considers appropriate, may order the cancellation of the instrument of incorporation of the corporation and it is dissolved on the date fixed in the order.

Hearing

(2) Before making a recommendation under subsection (1), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Revival

(3) Where a provincial corporation has been dissolved under subsection (1), the Lieutenant Governor in Council may revive the corporation by order, upon the application therefor of any interested person.

Issue

(4) Upon the date set out in an order under subsection (3), the corporation, subject to such terms and conditions as may be set out in the order, is revived and, subject to any rights



(2) Lorsque le lieutenant-gouverneur en conseil approuve ou rejette la demande de lettres patentes, de lettres patentes supplémentaires, de décret de reconstitution ou la demande de consentement aux termes de l'article 145, le surintendant en informe sans délai par écrit l'auteur de la demande.

Avis

**13** Sous réserve de la présente loi et des conditions et restrictions rattachées à son inscription, la compagnie provinciale :

Pouvoirs de la compagnie

- a) a la capacité, les droits, pouvoirs et privilèges d'une personne physique;
- b) a la capacité d'exploiter son entreprise, de diriger ses affaires et d'exercer ses pouvoirs dans une compétence législative autre que l'Ontario, dans les limites des lois de cette compétence législative.

### PARTIE III

#### LIQUIDATION, DISSOLUTION ET FUSION

**14** Sauf dans la mesure où la partie VI de la *Loi sur les compagnies et associations* est incompatible avec les dispositions de la présente loi, cette partie s'applique à la liquidation d'une compagnie provinciale, le mot «surintendant» étant alors substitué au mot «ministre».

Liquidation  
L.R.O. 1980,  
chap. 95

**15** (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du surintendant et aux conditions que le lieutenant-gouverneur en conseil juge pertinentes, ordonner l'annulation de l'acte constitutif de la compagnie provinciale dont l'exploitation effective n'a pas débuté dans les deux ans de sa constitution ou, ayant ainsi débuté, a été interrompue par la suite pendant deux années consécutives. La compagnie est alors dissoute à la date qui figure dans le décret.

Annulation  
faute d'ex-  
ploitation

(2) Avant de faire la recommandation visée au paragraphe (1), le surintendant donne à la compagnie l'occasion de se faire entendre.

Audience

(3) Le lieutenant-gouverneur en conseil peut, à la demande d'une personne intéressée, prendre un décret de reconstitution de la compagnie provinciale dissoute aux termes du paragraphe (1).

Reconstitution

(4) À la date fixée dans le décret pris aux termes du paragraphe (3) et aux conditions qui y sont énoncées, la compagnie est reconstituée. Celle-ci, sous réserve des droits acquis

Délivrance



acquired by any person after the dissolution, the corporation is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Actions after  
dissolution

**16.—**(1) Notwithstanding the dissolution of a provincial corporation under section 15,

- (a) every proceeding commenced in or before any court or tribunal by or against the corporation, its officers or directors before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a proceeding may be brought in or before any court or tribunal against the corporation, its officers or directors within five years after its dissolution as if the corporation had not been dissolved; and
- (c) all real or personal property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after  
dissolution

(2) For the purposes of this section, the service of any process on a provincial corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the public file referred to in section 139 as being a director or officer of the corporation before the dissolution.

Idem

(3) Where any proceeding has been brought against a provincial trust corporation after its dissolution, notice of the commencement of the proceeding, together with the originating process by which the proceeding was commenced, shall be served upon the Public Trustee.

Liability of  
shareholders  
to creditors

**17.—**(1) Notwithstanding the dissolution of a provincial corporation under section 15, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 16 to the extent of the amount received by that shareholder upon the distribution, and a proceeding to enforce such liability may be commenced within five years after the date of the dissolution of the corporation.

Idem

(2) The court hearing an action referred to in subsection (1) may order the action to be brought against the persons who

par une autre personne après la dissolution, recouvre son statut juridique premier de même que ses biens, droits, privilèges et concessions et est assujettie de nouveau et dans la même mesure aux obligations, contrats, incapacités et dettes qui existaient lors de la dissolution, comme si celle-ci n'avait pas eu lieu.

**16** (1) Malgré la dissolution de la compagnie aux termes de l'article 15 :

Recours après la dissolution

- a) l'instance introduite devant un tribunal judiciaire ou administratif par la compagnie ou contre elle, ses dirigeants ou ses administrateurs avant sa dissolution peut être poursuivie comme si la dissolution n'avait pas eu lieu;
- b) une instance peut être introduite devant un tribunal judiciaire ou administratif contre la compagnie, ses dirigeants ou ses administrateurs dans les cinq ans qui suivent sa dissolution comme si celle-ci n'avait pas eu lieu;
- c) les biens meubles et immeubles sur lesquels un jugement ou une ordonnance auraient pu être exécutés à défaut de la dissolution peuvent toujours servir à cette fin.

(2) Pour l'application du présent article, la signification à la compagnie provinciale de tout acte de procédure après la dissolution est réputée régulière, si elle est faite à l'un des administrateurs ou des dirigeants inscrit comme tel au dossier public visé à l'article 139 immédiatement avant la dissolution.

Signification après la dissolution

(3) Doivent être signifiés au Curateur public l'acte introductif ainsi que l'avis qui l'accompagne, dans le cas où une instance est introduite après la dissolution de la compagnie provinciale.

Idem

**17** (1) Malgré la dissolution de la compagnie provinciale aux termes de l'article 15, les actionnaires entre lesquels ont été répartis les biens de la compagnie engagent leur responsabilité, jusqu'à concurrence de la somme reçue, envers la personne qui invoque l'article 16. L'instance en recouvrement peut être introduite dans les cinq ans qui suivent la dissolution.

Responsabilité des actionnaires envers les créanciers

(2) Le tribunal qui entend l'instance visée au paragraphe (1) peut ordonner qu'elle soit dirigée contre les actionnaires en

Idem

were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes a claim, the court may refer the proceedings to a referee or other officer of the court.

Idem (3) Where a reference is made under subsection (2), the referee or other officer may,

(a) add as a party to the proceedings before him or her each person who was a shareholder found by the plaintiff;

(b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and

(c) direct payment of the amounts so determined.

Definition (4) In this section, "shareholder" includes the heirs and personal representatives of a shareholder.


Forfeiture of undispensed property **18.**—(1) All property of a provincial corporation that has not been disposed of at the date of its dissolution whether under this or any other Act is forfeit to the Crown.

Trust property (2) All property that immediately before the dissolution of a provincial trust corporation was being held in trust by it shall be delivered forthwith by the persons who were its officers and directors before its dissolution to the Public Trustee.

Idem (3) Where property is not delivered as required by subsection (2), the Public Trustee may do such things as may be necessary to obtain the property.

Idem (4) All property received by the Public Trustee under subsections (2) and (3) shall be held in trust by the Public Trustee for the beneficiaries of the trusts.

Property available to satisfy order of court or tribunal (5) Where an order is made in a proceeding referred to in section 16 and the order affects property forfeited to the Crown under subsection (1), the property shall be available to satisfy the order.

Amalgamation  **19.**—(1) Two or more corporations, of which at least one is a provincial corporation, may amalgamate and continue as one provincial corporation or as one extra-provincial corporation.

tant que groupe, sous réserve des conditions qu'il juge pertinentes. Si le demandeur établit le bien-fondé de sa demande, le tribunal peut renvoyer la question à un arbitre ou autre officier de justice.

(3)-Dans le cas du renvoi visé au paragraphe (2), l'arbitre ou l'autre officier de justice peut :

- a) joindre comme partie à l'instance chaque personne qui est un ancien actionnaire reconnu à ce titre par le demandeur;
- b) déterminer, sous réserve du paragraphe (1), la part que chaque ancien actionnaire doit verser pour indemniser le demandeur;
- c) ordonner le versement des sommes déterminées.

(4) Dans le présent article, «actionnaire» s'entend en outre de l'héritier et de l'ayant droit.

Définition  
«shareholder»

**18** (1) Sont dévolus à la Couronne les biens de la compagnie provinciale qui n'ont pas été aliénés lors de sa dissolution en vertu de la présente loi ou d'une autre loi.

Dévolution

(2) Les personnes qui étaient les dirigeants et administrateurs de la compagnie de fiducie provinciale lors de sa dissolution remettent sans délai au Curateur public les biens détenus en fiducie par celle-ci immédiatement avant la dissolution.

Biens en  
fiducie

(3) Le Curateur public peut prendre les mesures nécessaires aux fins de se faire livrer les biens qui n'ont pas été remis conformément au paragraphe (2).

Idem

(4) Le Curateur public détient en fiducie, pour le compte de leurs titulaires, les biens qu'il reçoit aux termes des paragraphes (2) et (3).

Idem

(5) Les biens dévolus à la Couronne en vertu du paragraphe (1) et sur lesquels porte l'ordonnance rendue lors de l'instance visée à l'article 16 peuvent servir à l'exécution de cette ordonnance.

Les biens  
peuvent servir  
à l'exécution  
de l'ordon-  
nance



**19** (1) Plusieurs compagnies, dont l'une au moins est une compagnie provinciale, peuvent fusionner en une seule compagnie provinciale ou en une seule compagnie extraprovinciale, et être ainsi prorogées.

Fusion


Asset sale

(2) A provincial corporation may sell all or substantially all of its assets to a corporation incorporated in Canada if the purchasing corporation assumes all or substantially all of the liabilities of the provincial corporation.

Asset purchase

(3) A provincial corporation may purchase all or substantially all of the assets of a corporation incorporated in Canada if the provincial corporation assumes all or substantially all of the liabilities of the vendor corporation.



Compulsory acquisitions  
1982, c. 4

(4) Part XV of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were incorporated under that Act. 

Mandatory agreement

**20.**—(1) Where corporations propose to amalgamate or purchase or sell assets under section 19, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation or purchase and sale.

When agreement effective

 (2) An agreement for the amalgamation of corporations or the purchase or sale of all or substantially all of the assets of a corporation does not take effect until all approvals required by this Part have been given. 

Contents of agreement, amalgamation

(3) Where corporations propose to amalgamate the agreement referred to in subsection (1) shall set out,

- (a) the proposed name of the amalgamated corporation;
- (b) the municipality or geographic township in Ontario and the address, including street name and number, if any, where the principal place of business of the amalgamated corporation is to be located;
- (c) the classes of shares that the amalgamated corporation may issue and the rights and privileges, restrictions and conditions attaching to each class of share;
- (d) the full name, address of residence, citizenship and occupation,
  - (i) of each of the first directors of the amalgamated corporation,
  - (ii) of every person who will hold immediately upon the amalgamation 10 per cent or more of any class of the shares of the amalgamated corporation;



(2) Une compagnie provinciale peut vendre la totalité ou la quasi-totalité de ses éléments d'actif à une compagnie constituée au Canada, à condition que la compagnie acheteuse en assume la totalité ou la quasi-totalité du passif.

Vente des  
éléments  
d'actif

(3) Une compagnie provinciale peut acheter la totalité ou la quasi-totalité des éléments d'actif d'une compagnie constituée au Canada, à condition d'en assumer la totalité ou la quasi-totalité du passif.

Achat des  
éléments  
d'actif

(4) La partie XV de la *Loi de 1982 sur les compagnies* s'applique avec les adaptations nécessaires à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée aux termes de cette loi.

Acquisitions  
forcées  
1982, chap. 4

**20** (1) Chacune des compagnies qui se proposent de fusionner, d'acheter ou de vendre des éléments d'actif aux termes de l'article 19, conclut une convention qui énonce les modalités soit de la fusion, soit de l'achat et de la vente.

Convention  
obligatoire

(2) La convention, soit de fusion de compagnies, soit d'achat ou de vente de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie, n'a pas d'effet avant d'avoir reçu toutes les approbations exigées par la présente partie.

Prise d'effet  
de la  
convention

(3) La convention visée au paragraphe (1) conclue par les compagnies qui se proposent de fusionner énonce :

Teneur de la  
convention de  
fusion

- a) la dénomination sociale projetée de la compagnie issue de la fusion;
- b) la municipalité ou le canton en Ontario ainsi que l'adresse, y compris le numéro du bâtiment et le nom de la rue, le cas échéant, où sera situé l'établissement principal de la compagnie issue de la fusion;
- c) les catégories d'actions que la compagnie issue de la fusion est autorisée à émettre, ainsi que les droits, privilèges, restrictions et conditions rattachés à chaque catégorie;
- d) les nom et prénoms au complet, l'adresse personnelle, la citoyenneté ainsi que la profession :
  - (i) de chacun des premiers administrateurs de la compagnie issue de la fusion,
  - (ii) de chaque personne qui, dès la fusion, détendra 10 pour cent ou plus des actions d'une catégorie de la compagnie issue de la fusion;





(e) the manner of converting the shares of the amalgamating corporations into shares of the amalgamated corporation or of exchanging shares of the amalgamating corporations for shares of the amalgamated corporation;

(f) such other details as may be necessary to complete the amalgamation and to provide for the management and operation of the amalgamated corporation; and



(g) the proposed effective date of the amalgamation.

Idem

(4) Where one of the amalgamating corporations owns shares of another of the amalgamating corporations, other than in a fiduciary capacity, the agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares or other securities of the amalgamated corporation.

Submission  
of agreement

(5) An agreement to amalgamate corporations or to purchase or sell all or substantially all of the assets of a corporation to another corporation shall be submitted to the shareholders of each corporation holding voting shares for their approval at a meeting thereof to be held separately for the purpose of taking the agreement into consideration.

Submission  
of offer

(6) Where an offer has been made to a corporation with respect to the purchase of all or substantially all of its assets and no agreement is reached, the offer, at the request of the corporation making the offer, shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the offer into consideration.






Notice of  
meeting

(7) Each corporation required by subsection (5) or (6) to hold a meeting shall deliver notice of the meeting and a copy of the agreement or offer to the Superintendent at least twenty-one days before the meeting.

Proceedings  
to approve  
agreement

**21.** At each of the meetings required by subsection 20 (5) or (6), the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued voting shares of the corporation are present in person or represented by proxy and the agreement or offer is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary of each corporation.

- 
 e) le mode de conversion des actions des compagnies qui fusionnent en actions de la compagnie issue de la fusion, ou le mode d'échange des actions des compagnies qui fusionnent contre les actions de la compagnie issue de la fusion;
- f) les autres précisions nécessaires pour réaliser la fusion et prévoir la gestion et l'exploitation de la compagnie issue de la fusion; 
- 
 g) la date de prise d'effet de la fusion.

(4) Si l'une des compagnies qui fusionnent possède, sauf à titre de fiduciaire, des actions de l'une des autres compagnies, la convention prévoit l'annulation de ces actions dès la prise d'effet de la fusion, sans remboursement de capital à leur égard. La convention ne doit pas prévoir la conversion de ces actions en actions ou en autres valeurs mobilières de la compagnie issue de la fusion. Idem

(5) La convention, soit de fusion des compagnies, soit d'achat ou de vente de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie en faveur d'une autre, est soumise à l'approbation des actionnaires détenteurs d'actions assorties du droit de vote de chacune des compagnies, lors d'assemblées tenues séparément dans le but d'examiner la convention. Présentation de la convention

(6) Si l'offre d'achat de la totalité ou de la quasi-totalité de ses éléments d'actif présentée à une compagnie ne fait pas l'objet d'une convention, cette offre, à la demande de la compagnie qui en est l'auteur, est soumise à l'approbation des actionnaires de chacune des compagnies lors d'assemblées tenues séparément dans le but d'examiner l'offre. Présentation de l'offre

(7) Au moins vingt et un jours avant la tenue de l'assemblée obligatoire visée aux paragraphes (5) ou (6), chaque compagnie tenue de convoquer cette assemblée fait parvenir au surintendant un avis de convocation de l'assemblée ainsi qu'un exemplaire de la convention ou de l'offre. Avis de l'assemblée

**21** La convention ou l'offre est examinée lors de chacune des assemblées dont les paragraphes 20 (5) ou (6) exigent la tenue. Si, à chacune de ces assemblées, les détenteurs d'au moins 50 pour cent des actions émises et assorties du droit de vote de la compagnie assistent en personne ou par fondé de pouvoir et que la convention ou l'offre est approuvée par résolution adoptée par le vote affirmatif des détenteurs d'au moins les trois quarts des actions qui y sont représentées, le secrétaire de chacune des compagnies atteste ce fait sur la convention ou l'offre. Procédure d'approbation de la convention

Dispensing  
with approval

**22.**—(1) The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the approval of the agreement or offer by the shareholders of the purchasing corporation if the Lieutenant Governor in Council is satisfied that the shareholders, entitled to vote thereon, have approved a general resolution or by-law authorizing the purchase of the assets of any corporation upon the basis and within the limits specified in such agreement or offer.

When offer  
becomes  
agreement

(2) An offer to which subsection 20 (6) applies shall be deemed for all purposes to be an agreement when it has been certified by the secretary of the vendor corporation under section 21 and either it has been certified by the secretary of the purchasing corporation as required by that section or the approval of the offer by the shareholders of the purchasing corporation has been dispensed with under subsection (1).

Submission  
to  
Lieutenant  
Governor in  
Council

**23.**—(1) If the agreement is approved and certified in accordance with section 21 by each of the corporations or, in the case provided for in section 22, by the shareholders of the vendor corporation, the agreement, with the certificates or certificate thereon, shall be filed with the Superintendent and the Superintendent shall submit the agreement to the Lieutenant Governor in Council for approval.

Idem

(2) In the case of an amalgamation, an agreement filed under subsection (1) shall be accompanied by an application for initial registration under subsection 31 (1) for the amalgamated corporation and, if the amalgamated corporation will be a provincial corporation, by an application for supplementary letters patent.

Notice,  
information

(3) The Superintendent, upon the filing of an agreement and before submitting the agreement to the Lieutenant Governor in Council,

- (a) shall require notice of the agreement, containing such information as the Superintendent may require, to be published by the parties to the agreement in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and in the case of an amalgamation, in the locality where the principal place of business of the amalgamated corporation is to be located; and
- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

**22** (1) Dans le cas d'un achat projeté d'éléments d'actif, le lieutenant-gouverneur en conseil peut dispenser la compagnie acheteuse de solliciter l'approbation de ses actionnaires s'il est convaincu que les actionnaires ayant le droit de voter à cet égard ont adopté une résolution générale ou un règlement intérieur autorisant l'achat des éléments d'actif d'une compagnie selon les modalités et dans les limites précisées dans la convention ou dans l'offre.

Dispense  
d'approbation

(2) L'offre visée au paragraphe 20 (6) est réputée une convention lorsqu'elle a été attestée aux termes de l'article 21 par le secrétaire de la compagnie venderesse et, à moins que la compagnie acheteuse n'ait été dispensée de solliciter l'approbation de ses actionnaires en vertu du paragraphe (1), également attestée par le secrétaire de cette dernière.

Offre trans-  
formée en  
convention

**23** (1) La convention qui a reçu l'approbation et l'attestation de chacune des compagnies conformément à l'article 21 ou, dans le cas prévu à l'article 22, des actionnaires de la compagnie venderesse, est déposée, pourvue du ou des certificats exigés, auprès du surintendant. Ce dernier la présente au lieutenant-gouverneur en conseil pour son approbation.

Présentation  
au lieute-  
nant-gouver-  
neur en  
conseil

(2) Dans le cas de fusion, la convention déposée aux termes du paragraphe (1) est accompagnée d'une demande de première inscription aux termes du paragraphe 31 (1) relative à la compagnie issue de la fusion et, si celle-ci doit être une compagnie provinciale, d'une demande de lettres patentes supplémentaires.

Idem

(3) Lors du dépôt de la convention et avant sa présentation au lieutenant-gouverneur en conseil, le surintendant :

Avis, rensei-  
gnements

- a) doit exiger que les parties à la convention publient dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est situé le principal établissement de chaque compagnie, l'avis de convention qui reproduit tous les renseignements qu'il exige. Dans le cas de fusion, cette publication a également lieu à l'endroit où sera situé l'établissement principal de la compagnie issue de la fusion;
- b) peut exiger que les parties à la convention fournissent les renseignements, documents et pièces qu'il estime nécessaires, outre ceux dont la production est exigée en vertu d'une autre disposition de la présente loi.



Refusal of  
approval

(4) The Lieutenant Governor in Council shall refuse approval of the agreement unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the case of an amalgamation,
  - (i) there exists a public benefit and advantage for the amalgamation of the corporations,
  - (ii) the proposed management is fit, both as to character and as to competence, to manage the amalgamated corporation,
  - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the amalgamated corporation immediately after the amalgamation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - (iv) each proposed first director is fit as to character and as to competence to be a director of the amalgamated corporation,
  - (v) the proposed plan of operations for the amalgamated corporation is feasible, and
  - (vi) the amalgamated corporation intends to offer to the public, initially or within a reasonable time after the amalgamation, the services set out in the amalgamation agreement;
- (b) in the case of a purchase and sale of assets,
  - (i) there exists a public benefit and advantage if the purchase and sale is completed,
  - (ii) the proposed plan of operations for the purchasing corporation upon the closing of the purchase agreement is feasible;
- (c) in the case where one of the parties to the agreement is a trust corporation and the amalgamated or purchasing corporation is a loan corporation, the arrangements referred to in subsection 29 (2) are adequate to protect the persons in relation to which the trust corporation, before the approval of the agreement, is acting in a fiduciary capacity; and

(4) Le lieutenant-gouverneur en conseil refuse son approbation à la convention, à moins qu'il ne soit démontré à sa satisfaction :

Refus d'approbation

a) dans le cas d'une fusion :

- (i) que celle-ci est avantageuse pour le public,
- (ii) que les membres proposés pour en assumer la direction sont aptes, du point de vue de la moralité et de la compétence, à gérer la compagnie issue de la fusion,
- (iii) que chaque personne qui, dès la fusion, détiendra 10 pour cent ou plus des actions d'une catégorie de la compagnie issue de la fusion, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
- (iv) que chacun des futurs premiers administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès de la compagnie issue de la fusion,
- (v) que le programme d'exploitation projeté de la compagnie issue de la fusion est réalisable,
- (vi) que la compagnie issue de la fusion se propose d'offrir au public dès la fusion ou dans un délai raisonnable par la suite, les services énoncés dans la convention de fusion;

b) dans le cas d'achat et de vente d'éléments d'actif :

- (i) qu'il est avantageux pour le public de parfaire l'achat et la vente,
- (ii) que le programme d'exploitation de la compagnie acheteuse projeté à la suite de la conclusion de la convention d'achat est réalisable;

c) si l'une des parties à la convention est une compagnie de fiducie et que la compagnie issue de la fusion ou la compagnie acheteuse est une compagnie de prêt, les arrangements visés au paragraphe 29 (2) suffisent à assurer la protection des personnes que la compagnie de fiducie représentait en cette qualité avant l'approbation de la convention;



- (d) where the amalgamated corporation is a loan corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$5,000,000 or, where the amalgamated corporation is a trust corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$10,000,000.

## Definition

**24.—**(1) In this section, “Superintendent’s certificate” means a certificate issued under subsection (2).

Superintendent’s  
certificate

(2) Where the Lieutenant Governor in Council approves an agreement submitted under subsection 23 (1), the Superintendent shall issue a certificate certifying,

- (a) that the approval of the Lieutenant Governor in Council has been given and the date of the approval;
- (b) in the case of a purchase or sale of assets, the name of each corporation that is a party to the transaction and whether the party is a vendor or a purchaser;
- (c) in the case of an amalgamation, the names of the corporations that are amalgamating, the name of the amalgamated corporation and the date upon which the amalgamation takes effect; and
- (d) such other matters, if any, as in the opinion of the Lieutenant Governor in Council are necessary or desirable in the public interest.

Effect as  
evidence

(3) A Superintendent’s certificate is *prima facie* proof of all matters set out therein.

## Notice

(4) Notice of the issue of a Superintendent’s certificate shall be published in *The Ontario Gazette* by the Superintendent.

Certificate of  
Superintendent

(5) Any document signed by or purportedly signed by the Superintendent, certifying the document to be or to contain a true copy of the Superintendent’s certificate or of any instrument referred to in the certificate, may be registered in any land registry office upon it being tendered for registration accompanied by the proper fee, if any.

## Registration

(6) It is sufficient in order to show the vesting of land or interests in land in the continuing corporation to register a certified copy of the Superintendent’s certificate in each land registry office in which instruments affecting land or interests in land, included or intended to be included in the amalgamation or purchase and sale, are registered.

- d) si la compagnie issue de la fusion est une compagnie de prêt, la compagnie issue de la fusion aura, dès la fusion, un apport en capital d'au moins 5 000 000 \$ ou, si la compagnie issue de la fusion est une compagnie de fiducie, un apport en capital d'au moins 10 000 000 \$.

**24** (1) Dans le présent article, «certificat du surintendant» s'entend du certificat délivré aux termes du paragraphe (2).

Définition  
«Superintendent's  
certificate»

(2) Lorsque le lieutenant-gouverneur en conseil a approuvé une convention présentée aux termes du paragraphe 23 (1), le surintendant délivre un certificat qui atteste ce qui suit :

Certificat du  
surintendant

- a) l'approbation du lieutenant-gouverneur en conseil ainsi que la date où il l'a donnée;
- b) dans le cas d'achat ou de vente d'éléments d'actif, la dénomination sociale de chacune des parties ainsi que sa qualité de venderesse ou d'acheteuse;
- c) dans le cas de fusion, les dénominations sociales des compagnies qui fusionnent, celle de la compagnie issue de la fusion ainsi que la date de mise à effet de la fusion;
- d) les autres éléments qui, de l'avis du lieutenant-gouverneur en conseil, sont nécessaires ou souhaitables dans l'intérêt public.

(3) Le certificat du surintendant fait foi *prima facie* de son contenu.

Force  
probante

(4) Le surintendant publie un avis de délivrance du certificat dans la *Gazette de l'Ontario*.

Avis

(5) Le document qui porte ou qui se présente comme portant la signature du surintendant, et qui atteste qu'il constitue ou reproduit une copie certifiée conforme du certificat du surintendant ou de l'acte auquel il est renvoyé dans le certificat, peut être enregistré à tout bureau d'enregistrement immobilier dès sa présentation à cette fin, accompagné des droits exigés, le cas échéant.

Certificat du  
surintendant

(6) Aux fins de signaler que des biens-fonds ou des droits fonciers sont acquis à la compagnie prorogée, il suffit d'enregistrer une copie certifiée conforme du certificat du surintendant dans chaque bureau d'enregistrement immobilier où sont enregistrés les actes qui concernent les biens-fonds ou les droits fonciers compris dans la fusion ou l'achat et la vente ou censés en faire partie.

Enregis-  
trement

Security  
interest  
R.S.O. 1980,  
c. 375

(7) For the purposes of the *Personal Property Security Act*, it is sufficient, in order to show the vesting in the continuing corporation of any interest in personal property that constitutes a security interest within the meaning of that Act and for which one of the amalgamating corporations is shown as a secured party in any financing statement registered under that Act, for a financing change statement to be registered in respect of the vesting as if the interest had been assigned.

Assets of  
vendor  
corporation  
vest in  
purchasing  
corporation

**25.**—(1) In the case of a purchase of all or substantially all of the assets of a corporation that has been approved by the Lieutenant Governor in Council, the assets purchased from the vendor corporation become vested in the purchasing corporation on and from the date of the approval without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the vendor corporation assumed under the agreement.

Disposal of  
assets by  
purchasing  
corporation

(2) In dealing with the assets of the vendor corporation, it is sufficient for the purchasing corporation to recite the agreement, the approval of the Lieutenant Governor in Council thereto and the date of approval.

Rights of  
creditors

**26.**—(1) A sale of the assets of a corporation does not affect the rights of any creditor of the vendor corporation.

Privity of  
contract  
between  
purchasing  
corporation  
and creditors  
of vendor  
corporation

(2) An agreement made or purporting to be made under this Act to purchase all or substantially all of the assets of a corporation shall be deemed to contain, in relation to the liabilities assumed under the agreement, an agreement with each creditor of the vendor corporation that the purchasing corporation will pay to the creditor the amount of the vendor corporation's liability to the creditor at such time and place as the amount that would have been payable had the agreement to purchase not been made.

Dissolution  
of vendor  
corporation

(3) The vendor corporation is dissolved from the date of the approval by the Lieutenant Governor in Council of the agreement to sell all or substantially all of its assets, except so far as is necessary to give full effect to the agreement or unless the Lieutenant Governor in Council orders otherwise.

Amalgama-  
tion

**27.**—(1) In the case of an amalgamation,

- (a) if the amalgamated corporation is a provincial corporation, the parties to the amalgamation, from the date set out in the letters patent of amalgamation, shall continue as one provincial corporation under the name stated in the letters patent;

(7) Pour l'application de la *Loi sur les sûretés mobilières*, aux fins de signaler que des droits mobiliers qui constituent des sûretés au sens de cette loi sont acquis à la compagnie prorogée, et que l'une des compagnies qui fusionnent figure en tant que créancier garanti de ces sûretés dans un état de financement enregistré aux termes de cette loi, il suffit d'enregistrer un état de modification du financement comme s'il y avait eu cession de la sûreté.

Sûretés  
L.R.O. 1980,  
chap. 375

**25** (1) Lorsque l'achat de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie a été approuvé par le lieutenant-gouverneur en conseil, les éléments d'actif achetés de la compagnie venderesse sont acquis à la compagnie acheteuse, sans autre forme de cession, à compter de la date de l'approbation. La compagnie acheteuse devient alors responsable des éléments du passif de la compagnie venderesse qu'elle assume aux termes de la convention.

Éléments  
d'actif de la  
compagnie  
venderesse  
acquis à la  
compagnie  
acheteuse

(2) En négociant les éléments d'actif de la compagnie venderesse, il suffit que la compagnie acheteuse cite la convention, l'approbation du lieutenant-gouverneur en conseil et la date de cette approbation.

Aliénation  
des éléments  
d'actif par la  
compagnie  
acheteuse

**26** (1) La vente des éléments d'actif de la compagnie venderesse ne porte pas atteinte aux droits de ses créanciers.

Droits des  
créanciers

(2) La convention conclue aux termes de la présente loi, ou se présentant comme étant ainsi conclue, en vue de l'achat de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie est réputée assortie, en ce qui concerne les éléments du passif qui sont assumés aux termes de la convention, d'une convention conclue avec chacun des créanciers de la compagnie venderesse en vertu de laquelle la compagnie acheteuse s'acquittera envers le créancier du montant de l'obligation de la compagnie venderesse à la date et au lieu auxquels la compagnie venderesse aurait dû verser ce montant, n'était cette convention d'achat.

Lien de droit  
contractuel  
entre la com-  
pagnie ache-  
teuse et les  
créanciers de  
la compagnie  
venderesse

(3) La compagnie venderesse est dissoute à compter de la date de l'approbation par le lieutenant-gouverneur en conseil de la convention de vente de la totalité ou de la quasi-totalité des éléments de son actif, sauf dans la mesure nécessaire pour mettre la convention à effet et sauf décret contraire du lieutenant-gouverneur en conseil.

Dissolution  
de la  
compagnie  
venderesse

**27** (1) Dans le cas de fusion :

Fusion

- a) si la compagnie issue de la fusion est une compagnie provinciale, les parties qui fusionnent sont, à compter de la date fixée dans les lettres patentes de fusion, prorogées comme une seule compagnie provinciale qui porte la dénomination sociale énoncée dans les lettres patentes;



- (b) if the amalgamated corporation is an extra-provincial corporation, every provincial corporation that is a party to the agreement is, from the effective date of the amalgamation under the laws of the jurisdiction under which the continuing corporation is incorporated, amalgamated with the other parties to the agreement and it shall continue with them as one corporation;
- (c) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal liabilities, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (d) a conviction against, or ruling, order or judgment in favour of or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (e) the letters patent of amalgamation are deemed to be the instrument of incorporation of the amalgamated corporation; and
- (f) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil proceeding commenced by or against an amalgamating corporation before the amalgamation has become effective.

Continuation  
in another  
jurisdiction

(2) Where the amalgamating corporations are to continue as one extra-provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction specified in the amalgamation agreement for an instrument amalgamating and continuing them as one corporation under the laws of that jurisdiction and, incidental to the application, every provincial corporation that is a party to the agreement may apply to the proper officer of that jurisdiction for an instrument continuing it as if it had been incorporated under the laws of that jurisdiction.

Acquisition  
of assets or  
amalgamation  
by purchase  
of shares

**28.**—(1) In addition to its powers under section 19, for the purpose of either acquiring the assets of any other corporation in Canada or amalgamating with any such corporation under this Part, a corporation may purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

- b) si la compagnie issue de la fusion est une compagnie extraprovinciale, chacune des compagnies provinciales partie à la convention est, à compter de la date de mise à effet de la fusion selon les lois du territoire de constitution de la compagnie issue de la fusion, fusionnée avec les autres parties à la convention et toutes sont prorogées comme une seule compagnie;
- c) les biens, droits, privilèges et concessions de chacune des compagnies qui fusionnent passent à la compagnie issue de la fusion à qui sont alors imposés les obligations, contrats, incapacités et dettes de celles-ci de même que toute responsabilité civile, pénale ou quasi-pénale;
- d) toute décision judiciaire ou quasi-judiciaire rendue en faveur d'une compagnie qui fusionne ou contre elle peut être exécutée par la compagnie issue de la fusion ou à l'encontre de celle-ci;
- e) les lettres patentes de fusion sont réputées l'acte constitutif de la compagnie issue de la fusion;
- f) la compagnie issue de la fusion est réputée partie demanderesse ou partie défenderesse, selon le cas, dans toute instance civile engagée avant la mise à effet de la fusion par une compagnie qui fusionne ou à l'encontre de celle-ci.

(2) Si les compagnies qui fusionnent continuent leur existence comme une seule compagnie extraprovinciale et qu'un certain nombre seulement des parties à la convention de fusion sont des compagnies provinciales, les parties à cette convention peuvent s'adresser au fonctionnaire attitré auprès de la compétence législative indiquée à la convention en vue d'obtenir un acte constitutif les fusionnant et prorogeant leur existence comme une seule compagnie en vertu des lois de cette compétence législative. À la suite de cette demande, chacune des compagnies provinciales parties à la convention peut également s'adresser à ce fonctionnaire en vue d'obtenir un acte constitutif qui proroge la compagnie comme si elle avait été constituée en vertu des lois de cette compétence législative.

Prorogation  
sous le  
régime d'une  
autre  
compétence  
législative

**28** (1) Outre les pouvoirs qui lui sont attribués par l'article 19, et en vue d'acquérir des éléments d'actif d'une autre compagnie au Canada ou de fusionner avec cette dernière en vertu de la présente partie, une compagnie peut acheter au moins 67 pour cent des actions en circulation de cette compagnie, sous réserve des conditions suivantes :

Acquisition  
des éléments  
d'actif ou  
fusion au  
moyen de l'a-  
chat d'actions



1. No such purchase shall be made except with the prior approval of the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council shall deny approval unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
  - i. there exists a public benefit and advantage for the purchase,
  - ii. the management of the purchasing corporation is fit both as to character and as to competence, to manage the corporation as it will exist after it completes the purchase of the assets or the amalgamation,
  - iii. each person who holds 10 per cent or more of any class of shares of the purchasing corporation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - iv. each director is fit as to character and as to competence to be a director of the corporation as it will exist after it completes the purchase of the assets or the amalgamation, and
  - v. the proposed plan of operations for the corporation as it will exist after it completes the purchase of the assets or the amalgamation is feasible.
3. The Lieutenant Governor in Council may approve the purchase where,
  - i. an offer to purchase shares has been accepted,
    - A. in writing by the holders of at least 67 per cent of the outstanding voting shares of such other corporation, or
    - B. by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding voting shares of each class of such corporation at a general meeting of the shareholders thereof, and

1. L'achat doit recevoir l'approbation préalable du lieutenant-gouverneur en conseil.
2. Le lieutenant-gouverneur en conseil rejette la demande, à moins qu'il ne soit convaincu que les conditions suivantes sont réunies :
  - i. que cet achat est avantageux pour le public,
  - ii. que les membres de la direction de la compagnie acheteuse sont aptes, du point de vue de la moralité et de la compétence, à gérer celle-ci conformément à la constitution qu'aura la compagnie dès que sera parfait l'achat des éléments d'actif ou la fusion,
  - iii. que chaque personne qui détient 10 pour cent ou plus des actions d'une catégorie de la compagnie acheteuse, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
  - iv. que chacun des administrateurs est apte, du point de vue de la moralité et de la compétence, à exercer cette fonction auprès de la compagnie conformément à la constitution qu'aura la compagnie dès que sera parfait l'achat des éléments d'actif ou la fusion,
  - v. qu'est réalisable le programme d'exploitation projeté de la compagnie envisagé selon la constitution qu'elle aura dès que sera parfait l'achat des éléments d'actif ou la fusion.
3. Le lieutenant-gouverneur en conseil peut donner son approbation à l'achat lorsque :
  - i. d'une part, l'offre d'achat des actions a été acceptée :
    - A. soit par écrit par les détenteurs d'au moins 67 pour cent des actions en circulation assorties du droit de vote de l'autre compagnie,
    - B. soit par résolution adoptée par le vote affirmatif des actionnaires détenant au moins 67 pour cent des actions en circulation assorties du droit de vote de chaque catégorie, exprimé lors d'une assem-

- ii. the offer to purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued voting shares of the corporation are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
4. A corporation may purchase shares under this section notwithstanding any other provision of this Act so long as the provisions of this section are satisfied.
5. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been approved by the Lieutenant Governor in Council proceed under this Part either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or amalgamate with the other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time.
6. After the expiration of the period referred to in paragraph 5 and every extension thereof, the Superintendent may direct the corporation to dispose of the shares.

Consideration  
for shares

(2) The consideration for the shares acquired under this section may be cash or securities of the purchasing corporation or may be partly cash and partly securities of the purchasing corporation or may be such other consideration as may be agreed upon.

No power to  
purchase own  
shares

(3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

Application

(4) A corporation purchasing shares under this section shall file an application for the approval required by subsection (1) with the Superintendent.

Notice,  
information

(5) The Superintendent, upon the filing of an application for the approval required by subsection (1),

- (a) shall require notice of the purchase, containing such information as the Superintendent may require, to

blée générale des actionnaires de cette compagnie,

- ii. d'autre part, l'offre d'achat a été présentée lors d'une assemblée générale des actionnaires de la compagnie acheteuse, à laquelle les détenteurs d'au moins 50 pour cent des actions émises de la compagnie assorties du droit de vote assistaient en personne ou par fondé de pouvoir et que l'achat a été approuvé par résolution adoptée par le vote affirmatif des détenteurs d'au moins les trois quarts des actions qui y étaient représentées.
4. Malgré toute disposition contraire de la présente loi, la compagnie peut faire l'achat d'actions aux termes du présent article.
5. La compagnie qui fait l'achat d'actions aux termes du présent article est tenue, dans les deux ans de l'approbation de cet achat par le lieutenant-gouverneur en conseil, de prendre aux termes de la présente partie les mesures nécessaires aux fins soit d'acquérir les éléments d'actif et d'assumer les obligations et dettes de l'autre compagnie, soit de fusionner avec elle. Toutefois, si le lieutenant-gouverneur en conseil est convaincu de la nécessité de cette mesure, il peut proroger le délai, même à plusieurs reprises.
6. Le surintendant peut enjoindre à la compagnie de se départir des actions à l'expiration du délai visé à la disposition 5 ou de sa prorogation.

(2) La contrepartie offerte en retour des actions acquises en vertu du présent article peut se composer de sommes en espèces ou de valeurs mobilières de la compagnie acheteuse ou d'une combinaison des deux ou peut revêtir toute autre forme convenue.

Contrepartie  
en retour des  
actions

(3) Le présent article n'a pas pour effet d'autoriser la compagnie à acheter ou acquérir ses propres actions.

Pas de pou-  
voir d'acheter  
ses propres  
actions

(4) La compagnie qui achète des actions en vertu du présent article dépose auprès du surintendant la demande visée au paragraphe (1).

Demande

(5) Lors du dépôt de la demande d'approbation visée au paragraphe (1), le surintendant :

Avis, rensei-  
gnements

- a) doit exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal générale-

be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business in Ontario of the continuing corporation is to be located; and

- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

Definition

**29.—**(1) In this section, “acquiring corporation” means,

- (a) the amalgamated corporation resulting from the amalgamation of one or more corporations; or
- (b) a corporation that purchases the assets of another corporation,

under this Part and for the purposes of subsections (5), (6) and (7) includes a corporation that is a transferee of the business in relation to which a trust corporation that is a party to an agreement of amalgamation or purchase and sale of assets acted as a fiduciary.

Transfer of  
estate, trust  
and agency  
business

(2) Before making the filing with the Superintendent required by subsection 23 (1), where one or more of the corporations that is a party to the amalgamation or purchase of assets is a trust corporation and the acquiring corporation is to be a loan corporation, the parties to the transaction shall make such arrangements as may be necessary to transfer to another trust corporation the business in relation to which the trust corporation acted as a fiduciary but this subsection does not apply so as to require a trust corporation to transfer to another trust corporation money received by it as deposits.

Deposits

(3) Where the acquiring corporation is,

- (a) a trust corporation and one of the parties to the amalgamation or purchase of assets is a loan corporation,
  - (i) deposits received by the loan corporation under clause 155 (1) (a) shall be deemed to be deposits received under clause 155 (2) (a), and



ment lu à l'endroit où est situé le principal établissement de chaque compagnie, l'avis d'achat qui reproduit les renseignements qu'il exige. Dans le cas de fusion, cette publication a également lieu à l'endroit où sera situé en Ontario l'établissement principal de la compagnie issue de la fusion;

- b) peut exiger que les parties à la convention fournissent les renseignements, documents et pièces qu'il estime nécessaires, outre ceux dont la production est exigée en vertu d'une autre disposition de la présente loi.

**29** (1) Pour l'application du présent article, «compagnie qui fait l'acquisition» s'entend de :

Définition  
«acquiring  
corporation»

- a) la compagnie issue de la fusion d'une ou de plusieurs compagnies;
- b) la compagnie qui achète les éléments d'actif d'une autre compagnie,

aux termes de la présente partie. Pour l'application des paragraphes (5), (6) et (7), le terme s'entend en outre de la compagnie qui est cessionnaire des activités que la compagnie de fiducie partie à la convention de fusion ou d'achat et de vente des éléments d'actif exerçait en qualité de fiduciaire.

(2) Avant que ne soit effectué le dépôt, exigé par le paragraphe 23 (1), du document auprès du surintendant, lorsque la compagnie qui fait l'acquisition est une compagnie de prêt et que l'une au moins des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de fiducie, les parties à l'acte prennent les mesures nécessaires pour céder à une autre compagnie de fiducie les activités que la compagnie de fiducie exerce en qualité de fiduciaire, à l'exclusion des sommes d'argent qu'elle a reçues à titre de dépôts.

Transfert des  
activités de  
fiducie

(3) Lorsque la compagnie qui fait l'acquisition est :

Dépôts

- a) une compagnie de fiducie, et que l'une des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de prêt :
  - (i) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) a) sont réputés reçus en vertu de l'alinéa 155 (2) a),



- (ii) deposits received by the loan corporation under clause 155 (1) (b) shall be deemed to be deposits received under clause 155 (2) (b); and
- (b) a loan corporation and one of the parties to the amalgamation or purchase of assets is a trust corporation,
  - (i) deposits received by the trust corporation under clause 155 (2) (a) shall be deemed to be deposits received under clause 155 (1) (a), and
  - (ii) deposits received by the trust corporation under clause 155 (2) (b) shall be deemed to be deposits received under clause 155 (1) (b).

Trust to  
pass

(4) On the approval of the Lieutenant Governor in Council as provided in section 23 to the amalgamation or purchase and sale of assets,

- (a) in a case to which subsection (2) applies, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the transferor of the business in relation to which the trust corporation that was a party to the amalgamation or purchase and sale is making the transfer are vested in and bind and may be enforced against the transferee as fully and effectually as if it had been originally named as the fiduciary in the instrument; and
- (b) in any other case, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the acquiring corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject-  
matter of  
trust to  
vest in  
acquiring  
corporation

(5) Wherever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the vendor corporation or of any of the amalgamating corporations as fiduciary, the name of the acquiring corporation shall be deemed to be substituted

- (ii) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) b) sont réputés reçus en vertu de l'alinéa 155 (2) b);
- b) une compagnie de prêt, et que l'une des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de fiducie :
  - (i) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) a) sont réputés reçus en vertu de l'alinéa 155 (1) a),
  - (ii) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) b) sont réputés reçus en vertu de l'alinéa 155 (1) b).

(4) Dès l'approbation par le lieutenant-gouverneur en conseil de la fusion ou de l'achat et de la vente des éléments d'actif, comme le prévoit l'article 23 :

Passation de la fiducie

- a) dans le cas prévu au paragraphe (2), sont acquises au cessionnaire les fiducies de toutes espèces, y compris les fiducies non parfaites ou incomplètes, ainsi que les obligations qui incombaient au cédant des activités dont la compagnie de fiducie partie à la fusion ou à l'achat et à la vente effectuée le transfère. Les fiducies et obligations sont alors susceptibles d'exécution à l'encontre du cessionnaire dans la même mesure que si celui-ci avait été le fiduciaire original désigné dans l'acte;
- b) dans tous les autres cas, les fiducies de toutes espèces, y compris les fiducies non parfaites ou incomplètes sont acquises à la compagnie qui fait l'acquisition, ainsi que les obligations qui incombaient aux parties à l'achat et à la vente. Les fiducies et les obligations sont alors susceptibles d'exécution à l'encontre de la compagnie qui fait l'acquisition dans la même mesure que si elle avait été le fiduciaire original désigné dans l'acte.

(5) Lorsque les termes de l'acte qui constate une succession, une somme d'argent ou un autre bien, intérêt, droit ou avantage possible, stipulent, au moment de la publication, de la rédaction ou de la signature de celui-ci, que les droits précités doivent par la suite être acquis à la compagnie vendeuse ou l'une des compagnies qui fusionnent, ou que celle-ci doit en assurer la gestion ou les prendre en charge en tant que fiduciaire, la dénomination sociale de la compagnie qui fait l'ac-

Objet de la fiducie acquis à la compagnie qui fait l'acquisition

for the name of the vendor or amalgamating corporation, and such instrument vests the subject-matter therein described in the acquiring corporation according to the tenor of, and at the time indicated or intended by the instrument, and the acquiring corporation shall be deemed to stand in the place and stead of the vendor or amalgamating corporation.

References  
in will or  
codicil

(6) Where the name of the vendor corporation or of any of the amalgamating corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the acquiring corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the vendor or amalgamating corporation.

Duties  
not  
completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or litigation guardian issued or made by any court in Ontario to the vendor corporation or to any of the amalgamating corporations, from which at the date of the approval of the Lieutenant Governor in Council it had not been finally discharged, the acquiring corporations shall *ipso facto* be substituted therefor.

## PART IV

### REGISTRATION

Registration

**30.**—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to be registered and may be acceptable for registration, and of granting registration accordingly, is upon the Superintendent.

Registers  
continued

(2) The registers known as the “Loan Companies’ Register” and the “Trust Companies’ Register” are hereby continued as the “Loan Corporations’ Register” (“Registre des compagnies de prêt”) and “Trust Corporations’ Register” (“Registre des compagnies de fiducie”), respectively.

Superintendent  
to keep  
registers

(3) The Superintendent shall keep the registers and shall cause to be recorded,

- (a) in the Loan Corporations’ Register, the name of each loan corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed; and

quisition est réputée substituée à celle de la compagnie vendeuse ou de la compagnie qui fusionne. Au moment précisé ou projeté selon les termes de l'acte, l'objet qui y est indiqué est acquis à la compagnie qui fait l'acquisition et celle-ci est réputée remplacer la compagnie vendeuse ou la compagnie qui fusionne.

(6) Le testament ou codicille dans lequel la compagnie vendeuse ou l'une des compagnies qui fusionnent figure à titre d'exécuteur testamentaire, de fiduciaire, de tuteur ou de curateur, doit se lire, s'interpréter et s'exécuter comme si la compagnie qui fait l'acquisition y était elle-même désignée. Cette dernière jouit à cet égard de la même qualité et des mêmes droits que la compagnie vendeuse ou la compagnie qui fusionne.

Mentions au testament ou codicille

(7) La compagnie qui fait l'acquisition est substituée, à la date de l'approbation du lieutenant-gouverneur en conseil, à la compagnie vendeuse ou à la compagnie qui fusionne, en ce qui concerne toutes lettres d'homologation, lettres d'administration, tutelles, curatelles ou désignations d'administrateurs ou de tuteurs à l'instance qui émanent d'un tribunal de l'Ontario en faveur de celles-ci et dont elles n'étaient pas libérées définitivement à cette date.

Obligations à remplir

## PARTIE IV

### INSCRIPTION

**30** (1) Il incombe au surintendant de déterminer, de différencier et, si elles s'avèrent acceptables à cette fin, d'inscrire les compagnies dont la présente loi requiert l'inscription.

Inscription

(2) Les registres connus sous les appellations de «Loan Companies' Register» et «Trust Companies' Register» sont prorogés sous les appellations de «Registre des compagnies de prêt» («*Loan Corporations' Register*») et «Registre des compagnies de fiducie» («*Trust Corporations' Register*»), respectivement.

Prorogation des registres

(3) Le surintendant a la garde des registres et veille à l'inscription :

Le surintendant a la garde des registres

- a) dans le Registre des compagnies de prêt, de la dénomination sociale de chacune de ces compagnies qui a obtenu son inscription, ainsi que des conditions et restrictions fixées par le surintendant et des autres mentions prescrites;

- (b) in the Trust Corporations' Register, the name of each trust corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed.

Idem (4) A corporation may be registered in either the Loan Corporations' Register or the Trust Corporations' Register.

Idem (5) The Superintendent shall note in the appropriate register,

- (a) all terms, conditions and restrictions imposed on the registration of a corporation;



- (b) the fact that the registration of a corporation has been revoked;



- (c) the fact that a registered loan corporation has been continued as a registered trust corporation or *vice versa*.

Application  
for  
registration

**31.**—(1) A corporation duly constituted or incorporated under the laws of Ontario or of Canada or of another province or territory of Canada may apply for initial registration as a loan corporation or as a trust corporation.

Change

(2) A registered loan corporation may apply to change its registration to that of a trust corporation and a registered trust corporation may apply to change its registration to that of a loan corporation.

Idem

(3) A registered corporation may apply to amend the terms, conditions and restrictions of its registration.

Definition

(4) In this section and sections 32 to 34, "application for registration" means an application under subsection (1) for initial registration, an application under subsection (2) for a change in registration or an application under subsection (3) to change terms, conditions and restrictions imposed on a registration.

Material to  
be furnished

(5) An application for registration shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify.



- b) dans le Registre des compagnies de fiducie, de la dénomination sociale de chacune de ces compagnies qui a obtenu son inscription, ainsi que des conditions et restrictions fixées par le surintendant et des autres mentions prescrites.

(4) Une compagnie peut être inscrite soit au Registre des compagnies de prêt, soit à celui des compagnies de fiducie. Idem

(5) Le surintendant porte au registre approprié les mentions suivantes : Idem

- a) les conditions et restrictions rattachées à l'inscription d'une compagnie;



- b) la révocation de l'inscription d'une compagnie;

- c) le fait que la compagnie de prêt inscrite a été prorogée en compagnie de fiducie inscrite ou vice versa.

**31** (1) Une compagnie dûment constituée en vertu des lois de l'Ontario, du Canada, d'une autre province ou d'un territoire du Canada, peut faire une demande de première inscription en tant que compagnie de prêt ou compagnie de fiducie. Demande d'inscription

(2) La compagnie de prêt inscrite peut demander que son inscription soit changée en celle de compagnie de fiducie et vice versa. Changement

(3) La compagnie inscrite peut déposer une demande en vue d'obtenir une modification des conditions et restrictions rattachées à son inscription. Idem

(4) Pour l'application du présent article et des articles 32 à 34, «demande d'inscription» s'entend de la demande de première inscription aux termes du paragraphe (1), de la demande de changement de l'inscription aux termes du paragraphe (2) et de la demande de modification des conditions et restrictions rattachées à l'inscription aux termes du paragraphe (3). Définition  
«application  
for  
registration»

(5) La demande d'inscription est rédigée selon la formule prescrite, déposée auprès du surintendant et accompagnée des renseignements, documents et pièces mentionnés dans la formule. Documents  
prescrits



Notice,  
additional  
information

(6) Where the Superintendent receives an application for the registration, the Superintendent may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business of the corporation is located or is to be located.

Additional  
information

(7) Where the Superintendent receives an application for the registration of a corporation, the Superintendent may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Protection  
of depositors

(8) An application for registration shall be accompanied by evidence that the corporation will from the time of registration be a member of the Canada Deposit Insurance Corporation or that the corporation's deposits will be insured by some other similar public agency approved by the Superintendent up to the maximum amounts permitted by the agency.

Estate, trust  
and agency  
services

(9) An application for registration as a trust corporation shall set out the classes of services in relation to which the corporation proposes to act in a fiduciary capacity.

Registration  
of extra-  
provincial  
corporations

**32.**—(1) Where an extra-provincial corporation applies for registration, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario and an undertaking to the Superintendent signed by the proper corporate officers that the corporation and its subsidiaries will provide such information as the Superintendent may request and will adhere to this Act and to the terms, conditions and restrictions, if any, imposed on its registration.

Execution of  
power of  
attorney

(2) A power of attorney under this section shall be under the seal of the corporation, if required in the jurisdiction of incorporation of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness.

Authenti-  
cation

(3) An undertaking under this section shall be accompanied by a certified copy of the resolution of the board of directors authorizing the corporation's officers to apply for registration under this Act and authorizing the execution of the undertaking.

(6) Sur réception d'une demande d'inscription, le surintendant peut exiger de l'auteur de la demande que ce dernier publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est ou sera situé l'établissement principal de la compagnie, un avis de la demande qui reproduit les renseignements qu'il exige.

Avis et renseignements supplémentaires

(7) Sur réception d'une demande d'inscription d'une compagnie, le surintendant peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces qu'il juge nécessaires.

Renseignements supplémentaires

(8) La demande d'inscription est accompagnée d'une preuve que la compagnie sera, dès le moment de l'inscription, membre de la Société d'assurance-dépôts du Canada ou que ses dépôts seront assurés par un autre organisme public semblable approuvé par le surintendant, jusqu'à concurrence de la somme maximale permise par cet organisme.

Protection des déposants

(9) La demande d'inscription en tant que compagnie de fiducie précise les catégories de services que la compagnie se propose d'offrir en sa qualité de fiduciaire.

Services fiduciaires

**32** (1) La demande d'inscription déposée par une compagnie extraprovinciale est accompagnée d'une procuration donnée à un ou plusieurs mandataires qui ont leur résidence en Ontario, ainsi que d'un engagement qui porte la signature des dirigeants attitrés de la compagnie. L'engagement prévoit que la compagnie et ses filiales fourniront au surintendant les renseignements qu'il peut exiger et se conformeront à la présente loi et aux conditions et restrictions, le cas échéant, rattachées à leur inscription.

Inscription des compagnies extraprovinciales

(2) La procuration visée au présent article porte le sceau de la compagnie, si ce dernier est requis par les lois du territoire de constitution de la compagnie, ainsi que les signatures du président et du secrétaire ou des dirigeants attitrés, apposées en présence d'un témoin.

Signatures apposées à la procuration

(3) L'engagement pris aux termes du présent article est accompagné d'une copie certifiée conforme d'une résolution du conseil d'administration dont les termes autorisent les dirigeants de la compagnie à déposer la demande d'inscription, ainsi qu'à signer l'engagement.

Authentification

Contents of  
power of  
attorney

(4) A power of attorney under this section shall be in the prescribed form and shall be accompanied by the affidavit or statutory declaration of the witness referred to in subsection (2) attesting to the due execution of the power of attorney.

Effect of  
copy as  
evidence

(5) A copy of a power of attorney under this section certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person or persons named therein to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

Changes in  
chief agent  
or agency

(6) When an extra-provincial corporation changes any of its agents in Ontario, it shall forthwith file with the Superintendent a new power of attorney in the prescribed form.

Rejection of  
application

**33.** The Superintendent shall reject an application for registration,

- (a) unless the capital base of the corporation is at least \$5,000,000 in the case of a loan corporation and \$10,000,000 in the case of a trust corporation;
- (b) unless the corporation has satisfied the Superintendent that it has the capacity and power to engage in the activities of a loan corporation or a trust corporation, as the case may be;
- (c) if the applicant is not a corporation described in subsection 31 (1);
- (d) unless it is shown to the satisfaction of the Superintendent that,



(i) there exists a public benefit and advantage for the registration of an additional corporation of the kind for which registration is sought,



(ii) the management is fit, both as to character and as to competence, to manage a corporation of the kind for which registration is sought,

(iii) each person who will be a holder of 10 per cent or more of any class of shares of the applicant immediately after the registration can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,

(4) La procuration aux termes du présent article est rédigée selon la formule prescrite et est accompagné de l'affidavit ou de la déclaration solennelle du témoin visé au paragraphe (2), qui atteste la signature en bonne et due forme de la procuration.

Teneur de la  
procuration

(5) La copie de la procuration visée au présent article, certifiée conforme par le surintendant, fait foi des pouvoirs et du mandat attribués dans la procuration aux personnes qui y sont nommées pour agir au nom de la compagnie, de la manière et pour les fins énoncées dans la copie certifiée conforme.

La copie fait  
foi

(6) La compagnie extraprovinciale qui change l'un de ses mandataires en Ontario dépose sans délai auprès du surintendant une nouvelle procuration rédigée selon la formule prescrite.

Changement  
de mandataire

### **33** Le surintendant rejette la demande d'inscription :

Rejet de la  
demande

- a) à moins que l'apport en capital de la compagnie ne soit d'au moins 5 000 000 \$ dans le cas de la compagnie de prêt, et d'au moins 10 000 000 \$ dans le cas de la compagnie de fiducie;
- b) à moins que la compagnie n'ait convaincu le surintendant qu'elle est dotée de la capacité et des pouvoirs nécessaires à l'exercice des activités d'une compagnie de prêt ou d'une compagnie de fiducie, selon le cas;
- c) à moins que l'auteur de la demande ne soit une compagnie visée au paragraphe 31 (1);
- d) à moins que le surintendant ne soit convaincu de ce qui suit :



(i) qu'il est avantageux pour le public de procéder à l'inscription d'une nouvelle compagnie du genre de celle dont on sollicite l'inscription,



(ii) que les membres de la direction de la compagnie sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie du genre de celle dont on sollicite l'inscription,

(iii) que chaque personne qui, dès l'inscription, détiendra 10 pour cent ou plus des actions d'une catégorie de l'auteur de la demande, est

- (iv) each director is fit, both as to character and as to competence, to be a director of the corporation of the kind for which registration is being sought,
  - (v) the proposed plan of operations of the corporation is feasible, and
  - (vi) the applicant intends to offer, to the public, initially or within a reasonable time after registration, the services set out in the application for registration and the applicant has the capability to provide such services; or
- (e) if the Superintendent is not satisfied as to the adequacy of any information received with or in support of the application for registration.

Approval  
subject to  
conditions  
and  
restrictions

**34.**—(1) Where the Superintendent is not satisfied as to all of the matters referred to in clause 33 (a), (b) or (d), the Superintendent in lieu of rejecting the application may approve the application for registration of the applicant,

- (a) as a corporation of a kind other than that which the application for registration was made and subject to such terms, conditions and restrictions as the Superintendent may impose; or
- (b) as the kind of corporation for which the application for registration was made but subject to such terms, conditions and restrictions as the Superintendent may impose.

Hearing

(2) Before rejecting an application or before granting an application subject to terms, conditions and restrictions, the Superintendent shall give the corporation an opportunity to be heard before him or her.

Voluntary  
terms and  
conditions

**35.** With the consent of the registered corporation, the Superintendent may impose terms, conditions and restrictions on the registration of a corporation or terms, conditions and restrictions in addition to those previously imposed on the registration of the corporation and subsection 34 (2) does not apply to such terms, conditions and restrictions.

Cancellation  
of  
registration  
on request of  
corporation

**36.** At the request of a registered corporation, the Superintendent may revoke its registration subject to such terms, conditions and restrictions as the Superintendent may impose.



en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,

- (iv) que chacun des administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie du genre de celle dont on sollicite l'inscription,
- (v) que le programme d'exploitation projeté est réalisable,
- (vi) que l'auteur de la demande se propose d'offrir au public dès son inscription ou dans un délai raisonnable par la suite, les services énoncés dans la demande d'inscription et que celui-ci est effectivement en mesure de les fournir;
- e) s'il n'est pas convaincu que les renseignements reçus avec la demande d'inscription ou à l'appui de celle-ci sont adéquats.

**34** (1) S'il conserve des doutes en ce qui concerne l'observation des normes visées aux alinéas 33 a), b) ou d), le surintendant peut, au lieu de rejeter la demande, approuver l'inscription de son auteur :

Approbation  
assujettie à  
des conditions  
et restrictions

- a) en tant que compagnie d'un genre différent de celui sollicité par la demande d'inscription, sous réserve des conditions et restrictions qu'il peut fixer;
- b) en tant que compagnie du genre sollicité, mais sous réserve des conditions et restrictions qu'il peut fixer.

(2) Avant de rejeter une demande, ou de l'accueillir sous réserve de conditions et de restrictions, le surintendant donne à la compagnie l'occasion de se faire entendre.

Audience

**35** Le surintendant, avec le consentement de la compagnie inscrite, peut assortir l'inscription d'une compagnie de conditions et de restrictions ou en ajouter à celles déjà existantes et, dans ce cas, le paragraphe 34 (2) ne s'y applique pas.

Conditions  
volontaires

**36** Le surintendant, à la demande de la compagnie inscrite, peut révoquer l'inscription de celle-ci sous réserve des conditions et restrictions qu'il fixe.

Radiation de  
l'inscription à  
la demande  
de la  
compagnie



Names

**37.**—(1) Subject to subsection (2), no corporation shall be registered that has a name,

(a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;

(b) that is the same or similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that in the case of a trust corporation does not include,

(i) “trust” or “fiducie” together with a designation such as “corporation”, “company”, “compagnie”, “limited”, “limitée” or “société”, or

(ii) “trustco”.

Idem

(2) Notwithstanding clause (1) (b), a corporation may be registered with a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

**37** (1) Sous réserve du paragraphe (2), ne doit pas être inscrite la compagnie dont la dénomination sociale :

- a) reproduit un mot ou une expression prohibés par la présente loi ou les règlements, ne les reproduit pas alors qu'ils sont requis ou qui pour un autre motif n'est pas conforme à la présente loi ou aux règlements;

- b) est identique ou semblable :

- (i) à la dénomination sociale ou au nom :

- (A) d'une personne morale,
    - (B) d'une fiducie,
    - (C) d'une association,
    - (D) d'une société en nom collectif,
    - (E) d'une entreprise personnelle,
    - (F) d'un particulier,

qui est connu, qu'il existe ou non,

- (ii) à la dénomination sociale ou au nom connus sous lesquels une personne morale, une fiducie, une association, une société en nom collectif, une entreprise personnelle ou un particulier s'identifie ou exerce ses activités commerciales, si l'emploi de la dénomination sociale ou du nom peut s'avérer trompeur;

- c) dans le cas d'une compagnie de fiducie, ne reproduit pas les mots :

- (i) soit «trust» ou «fiducie», ainsi qu'une désignation telle que «corporation», «company», «compagnie», «limited», «limitée» ou «société»,

- (ii) soit «trustco».

(2) Malgré l'alinéa (1) b), la compagnie qui porte une dénomination sociale décrite aux sous-alinéas (1) b) (i) ou (ii) peut être inscrite si elle s'est conformée aux conditions prescrites. <sup>Idem</sup>

Bilingual  
names

(3) Subject to this Act and the regulations, a corporation may be registered that has a name in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated in Ontario by any such name.

Use of  
different  
name  
may be  
required

(4) Where a corporation has a name that contravenes subsection (1), the Superintendent may register the corporation if it undertakes either to change its name to a name that does not contravene subsection (1) or to carry on business in Ontario under a name that does not contravene subsection (1).

Change of  
name

(5) Where, through inadvertence or otherwise, a corporation has obtained registration under a name that contravenes subsection (1), the Superintendent, after giving the corporation an opportunity to be heard, may order as a condition of registration that the corporation carry on business under a name specified in the order.



Deemed  
registration

**38.**—(1) A corporation that, immediately before the coming into force of this section, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, as a loan corporation or a trust company, shall be deemed to be registered under this Act as a loan corporation or a trust corporation, as the case may be.

Conditions,  
change of  
registrations

(2) If the Superintendent is of the opinion that, had a corporation to which subsection (1) applies been required to make an application for initial registration under subsection 31 (1), he or she would not have approved the application except as provided in subsection 34 (1), the Superintendent may by order,

- (a) change the registration of the corporation from that of a loan corporation to that of a trust corporation or *vice versa*;
- (b) impose terms, conditions and restrictions on the registration of the corporation.

Time limit

(3) The Superintendent shall not make an order under subsection (2) unless, within one year of the coming into force of this section, the Superintendent gives the corporation notice of the intention to make the order.

Hearing

(4) Before making an order under subsection (2), the Superintendent shall give the corporation an opportunity to be heard.

(3) Sous réserve de la présente loi et des règlements, peut être inscrite la compagnie qui porte une dénomination sociale anglaise, une dénomination sociale française, une dénomination sociale dans chacune de ces deux langues ou une dénomination sociale qui présente une combinaison des deux langues. La compagnie peut être légalement désignée en Ontario par n'importe laquelle de ses dénominations sociales.


Dénominations  
sociales  
bilingues

(4) Le surintendant peut inscrire la compagnie dont la dénomination sociale contrevient au paragraphe (1), si celle-ci s'engage, soit à substituer à sa dénomination sociale une autre qui est conforme à ce paragraphe, soit à exercer ses activités commerciales en Ontario sous une dénomination sociale également conforme à ce paragraphe.

Emploi d'une  
dénomination  
sociale  
différente

(5) Si, par mégarde ou autrement, la compagnie a été inscrite sous une dénomination sociale non conforme au paragraphe (1), le surintendant peut, après lui avoir donné l'occasion de se faire entendre, ordonner que l'inscription de la compagnie soit subordonnée au fait qu'elle exerce ses activités en Ontario sous la dénomination sociale qu'il précise dans l'ordonnance.

Modification  
d'une déno-  
mination  
sociale  
contestable

 **38** (1) La compagnie qui était, immédiatement avant l'entrée en vigueur du présent article, inscrite en vertu de la *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980, en tant que compagnie de prêt ou compagnie de fiducie, est réputée inscrite en vertu de la présente loi en tant que compagnie de prêt ou compagnie de fiducie, selon le cas.

Inscription  
réputée

(2) Lorsque le surintendant est d'avis qu'il n'aurait pas approuvé (sauf de la manière que prévoit le paragraphe 34 (1)) la demande d'une compagnie visée par le paragraphe (1) si celle-ci avait été tenue de présenter une demande de première inscription aux termes du paragraphe 31 (1), le surintendant peut, au moyen d'une ordonnance :

Conditions,  
changement  
de  
l'inscription

- a) changer l'inscription de la compagnie en tant que compagnie de prêt en inscription en tant que compagnie de fiducie, ou vice versa;
- b) assortir l'inscription de la compagnie de conditions et de restrictions.

(3) Le surintendant ne prend pas l'ordonnance visée au paragraphe (2), à moins d'avoir donné à la compagnie, dans l'année qui suit l'entrée en vigueur du présent article, un avis de son intention à cet égard.

Délai

(4) Avant de prendre l'ordonnance visée au paragraphe (2), le surintendant donne à la compagnie l'occasion de se faire entendre.

Audience

Registration  
of extra-  
provincial  
corpora-  
tions

**39.**—(1) An extra-provincial corporation shall not be registered if under its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it is incorporated, the corporation and its shareholders, directors, officers, employees and auditors are unable to satisfy the requirements of sections 59 to 68, subsections 89 (2), (3), (4) and (5), sections 90, 96, 98, 100, 101, 103, 106, 107, 108, 109, 110 and 112 and Part IX.

Idem

(2) Upon the registration of an extra-provincial corporation, the provisions of this Act referred to in subsection (1) apply to it and its shareholders, directors, officers, employees and auditors as if the corporation were a provincial corporation.

Idem

(3) It shall be deemed to be a term of registration of every extra-provincial corporation that its registration expires forthwith if its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it was incorporated are amended so that the corporation or the individuals referred to in subsection (1) are unable to satisfy the provisions of this Act referred to in that subsection.

Idem

(4) If the Superintendent is of the opinion that the depositors will be adequately protected, he or she may register or continue the registration of an extra-provincial corporation that would otherwise be ineligible under this section for registration because,

- (a) compliance with the provision of this Act referred to in subsection (1) would be a contravention of the law of its jurisdiction of incorporation; or
- (b) enabling legislation would be required in its jurisdiction of incorporation before a provision of this Act referred to in subsection (1) could be satisfied,

and the provision of this Act does not apply so long as it cannot be satisfied. 

## PART V

### SHARES AND SHAREHOLDERS

Deemed  
liability

**40.** For the purposes of sections 47, 48, 50 and 54, deposits in a trust corporation shall be deemed to be a liability of the corporation notwithstanding that the deposit is held by it as trustee.



**39** (1) Une compagnie extraprovinciale ne doit pas être inscrite si, aux termes de son acte constitutif, de son règlement intérieur ou des lois de son territoire de constitution, la compagnie et ses actionnaires, administrateurs, dirigeants, employés et vérificateurs ne sont pas en mesure de se conformer aux exigences des articles 59 à 68, des paragraphes 89 (2), (3), (4) et (5), des articles 90, 96, 98, 100, 101, 103, 106, 107, 108, 109, 110 et 112 et de la partie IX.

Inscription  
des compa-  
gnies extra-  
provinciales

(2) Dès l'inscription de la compagnie extraprovinciale, les dispositions de la présente loi visées au paragraphe (1) s'appliquent à la compagnie et à ses actionnaires, administrateurs, dirigeants, employés et vérificateurs comme s'il s'agissait d'une compagnie provinciale.

Idem

(3) Est réputée constituer une condition d'inscription de la compagnie extraprovinciale celle qui entraîne la caducité de son inscription dès l'avènement d'une modification à son acte constitutif, à son règlement intérieur ou aux lois de son territoire de constitution qui a pour effet d'empêcher la compagnie ou les personnes physiques visées au paragraphe (1) de se conformer aux dispositions de la présente loi qui y sont énoncées.

Idem

(4) Si le surintendant est d'avis que la protection offerte aux déposants sera suffisante, il peut inscrire une compagnie extraprovinciale, ou maintenir son inscription en vigueur, malgré le fait qu'elle ne satisfasse pas par ailleurs aux conditions d'inscription ou de maintien en vigueur de son inscription :

Idem

- a) soit parce que le fait de se conformer à une disposition de la présente loi mentionnée au paragraphe (1) constituerait une contravention aux lois de son territoire de constitution;
- b) soit parce qu'il faudrait qu'une loi d'habilitation soit adoptée dans son territoire de constitution avant qu'une disposition de la présente loi mentionnée au paragraphe (1) ne puisse être observée.

La disposition de la présente loi ne s'applique alors pas à la compagnie tant que la disposition ne puisse être observée.



## PARTIE V

### ACTIONS ET ACTIONNAIRES

**40** Pour l'application des articles 47, 48, 50 et 54, sont réputés éléments du passif de la compagnie les dépôts effectués auprès d'une compagnie de fiducie, malgré le fait que ceux-ci soient détenus par la compagnie en tant que fiduciaire.

Éléments du  
passif réputés



Shares

**41.**—(1) Shares of a provincial corporation shall be in registered form and shall be without nominal or par value.

Idem

(2) Shares with a nominal or par value of a provincial corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value.

Common shares

**42.**—(1) Every provincial corporation shall have one class of shares designated as “common shares” in which the rights of the holders thereof are equal in all respects and shall include,

- (a) the right to vote at all meetings of shareholders;
- (b) the right to receive the remaining property of the corporation upon dissolution; and
- (c) the right to receive dividends of the corporation if declared on such shares.

Other classes of shares

(2) Classes of shares in addition to common shares may be provided for in the instrument of incorporation and the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the instrument of incorporation but such shares shall not be designated as “common shares” or by any variation of that term.

Issuance of shares

(3) Subject to this Act and the instrument of incorporation, shares may be issued at such time and to such persons and for such consideration as the directors may determine.

Shares non-assessable

(4) Shares issued by a provincial corporation are non-assessable and the holders are not liable to the provincial corporation or to its creditors in respect thereof.

Fully paid shares

(5) On and after the day this section comes into force, a share in a provincial corporation shall not be issued until the consideration for the share is fully paid in Canadian dollars and received by the corporation.

Separate capital account

**43.**—(1) A provincial corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A provincial corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration.

**41** (1) Les actions d'une compagnie provinciale sont nominatives sans valeur au pair ni nominale. Actions

(2) Les actions d'une compagnie provinciale constituée avant l'entrée en vigueur du présent article sont réputées sans valeur au pair ni valeur nominale. Idem

**42** (1) La compagnie provinciale possède une catégorie d'actions désignée sous l'appellation d'«actions ordinaires», dont les détenteurs ont des droits égaux, notamment ceux : Actions ordinaires

- a) de voter aux assemblées des actionnaires;
- b) de partager entre eux le reliquat des biens de la compagnie lors de la dissolution;
- c) de recevoir les dividendes déclarés sur ces actions, le cas échéant.

(2) L'acte constitutif peut prévoir d'autres catégories d'actions et dans ce cas les droits, privilèges, conditions et restrictions qui se rattachent aux actions de chaque catégorie y sont énoncés. Ces actions ne doivent toutefois pas être désignées sous l'appellation d'«actions ordinaires» ou d'une variante de celle-ci. Autres catégories d'actions

(3) Sous réserve de la présente loi et de l'acte constitutif, la compagnie peut émettre des actions dont les administrateurs déterminent la date d'émission, ainsi que les personnes qui peuvent souscrire et l'apport qu'elles doivent fournir. Émission d'actions

(4) L'émission d'une action est libératoire quant à l'apport exigible de son détenteur. Actions libérées

(5) Dès le jour de l'entrée en vigueur du présent article, les actions ne doivent pas être émises avant d'avoir été entièrement libérées en monnaie canadienne que la compagnie a effectivement reçue. Actions entièrement libérées

**43** (1) La compagnie provinciale tient un compte capital déclaré distinct pour chacune des catégories et séries d'actions émises. Compte capital distinct

(2) La compagnie provinciale porte au crédit du compte pertinent le montant total de l'apport reçu en contrepartie des actions émises. Idem

Limitation on  
additions to  
stated capital  
account

(3) On the issue of a share, a provincial corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

Transition

(4) Notwithstanding subsection (2), on the day this Act comes into force, the amount in the stated capital account maintained by a provincial corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and a provincial corporation may, upon complying with subsection (5), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

Special  
resolution  
additions to  
stated capital  
account

(5) Where a provincial corporation proposes to add any amount, other than an amount to be added under subsection 54 (2), to a stated capital account that it maintains in respect of a class or series of shares, the addition to the stated capital account must be approved by special resolution if,

(a) the amount to be added,

(i) was not received by the provincial corporation as consideration for the issue of shares, or

(ii) was received by the provincial corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the provincial corporation has outstanding shares of more than one class or series.

Idem

(6) Where a class or series of shares of a provincial corporation would be affected by the addition of an amount to any stated capital account in a situation where a special resolution is required under subsection (5) in a manner different from the manner in which any other class or series of shares of the provincial corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Special  
shares  
in series

**44.—**(1) Subject to its instrument of incorporation, the directors of a provincial corporation may authorize the issue of any class of shares other than common shares in one or more series and they may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.

(3) Lorsqu'elle émet une action, la compagnie provinciale ne doit pas porter au crédit de son compte capital déclaré relativement à cette action un montant supérieur à celui visé au paragraphe (2).

Limites aux imputations au compte capital déclaré

(4) Malgré le paragraphe (2), le jour de l'entrée en vigueur de la présente loi, le compte capital déclaré relatif à chaque catégorie ou série d'actions alors émises de la compagnie provinciale est égal au montant total reçu pour les actions libérées de chacune d'elles immédiatement avant cette date. La compagnie provinciale peut, après s'être conformée au paragraphe (5), porter au crédit du compte capital déclaré relatif à une catégorie ou série d'actions les sommes auparavant portées au crédit d'un compte de bénéfices non répartis ou d'un autre compte de surplus.

Disposition transitoire

(5) L'imputation d'une somme au compte capital déclaré relatif aux actions d'une catégorie ou d'une série, autrement qu'en vertu du paragraphe 54 (2), doit être approuvé par résolution spéciale si :

Résolution spéciale, imputation au compte capital déclaré

a) d'une part, la somme à porter au crédit :

- (i) n'a pas été reçue par la compagnie provinciale en contrepartie de l'émission d'actions,
- (ii) a été reçue par la compagnie provinciale en contrepartie de l'émission d'actions, mais ne fait pas partie du capital déclaré relatif à ces actions;

b) d'autre part, la compagnie provinciale compte des actions en circulation de plusieurs catégories ou séries.

(6) Dans le cas où l'imputation d'une somme à un compte capital déclaré d'une compagnie provinciale aurait une incidence particulière sur une catégorie ou une série distincte d'actions lorsqu'une résolution spéciale est exigée aux termes du paragraphe (5), leurs détenteurs ont le droit de voter séparément sur la proposition en tant que détenteurs de ces actions, que celles-ci comportent ou non le droit de vote.

Idem

**44** (1) Sous réserve de son acte constitutif, les administrateurs de la compagnie provinciale peuvent autoriser l'émission d'une catégorie d'actions autres que les actions ordinaires en une ou plusieurs séries, fixer le nombre d'actions et la désignation de chaque série et déterminer les droits, privilèges, restrictions et conditions rattachés aux actions de chaque série.

Émission d'actions spéciales en série

Proportionate  
abatement

(2) If any amount,

- (a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or
- (b) payable on return of capital in the event of the liquidation, dissolution or winding up of a provincial corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

- (c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or
- (d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority  
of shares of  
same class

(3) No rights, privileges, restrictions or conditions attached to a series of shares whose issue is authorized under this section shall confer upon the shares of a series a priority in respect of,

- (a) dividends; or
- (b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class.

Conversion  
privileges

**45.**—(1) A provincial corporation may issue warrants as evidence of conversion privileges or options or rights to acquire its securities and it shall set out the conditions thereof,

- (a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or
- (b) in separate certificates or other documents.

Idem

(2) Conversion privileges and options or rights to purchase securities of a provincial corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached.



(2) Lorsque :

Diminution  
proportion-  
nelle

- a) soit un dividende cumulatif, déclaré ou non, ou un dividende déclaré non cumulatif;
- b) soit un remboursement du capital lors de la liquidation ou de la dissolution de la compagnie provinciale,

relativement aux actions d'une série, n'est pas versé en entier, les actions de cette série participent au prorata avec les autres actions de toutes les autres séries de la même catégorie en ce qui concerne, selon le cas :

- c) les dividendes accumulés, déclarés ou non, ainsi que les dividendes déclarés non cumulatifs;
- d) le remboursement du capital lors de la liquidation ou de la dissolution de la compagnie.

(3) Les droits, privilèges, restrictions et conditions rattachés aux actions d'une série dont l'émission est autorisée en vertu du présent article ne doivent pas leur conférer de traitement préférentiel au préjudice des actions d'une autre série de la même catégorie en ce qui a trait :

Aucun traite-  
ment préfé-  
rentiel dans  
une même  
catégorie  
d'actions

- a) aux dividendes;
- b) au remboursement du capital lors de la liquidation ou de la dissolution.

**45** (1) La compagnie provinciale peut délivrer des bons de souscription attestant des privilèges de conversion, des options ou des droits d'acquérir ses valeurs mobilières, aux conditions qu'elle énonce :

Privilèges de  
conversion

- a) soit dans des certificats attestant les valeurs mobilières auxquelles ces privilèges de conversion, options ou droits se rattachent;
- b) soit dans des certificats distincts ou dans d'autres documents.

(2) Les privilèges de conversion peuvent être négociables ou non négociables. Il en est de même pour les options et les droits d'acquérir des valeurs mobilières de la compagnie, qui peuvent être séparables ou non des valeurs mobilières auxquelles ils se rattachent.

Idem



Corporation  
to maintain  
sufficient  
reserve

(3) Where a provincial corporation has granted privileges to convert any securities, other than shares issued by it, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and, where the instrument of incorporation limits the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights.

Subsidiaries  
not to hold  
shares in  
holding body  
corporate

**46.** Except as provided in sections 47 to 49, a provincial corporation,

- (a) shall not hold shares in itself or in its holding body corporate; and
- (b) shall not permit any of its subsidiaries to hold shares in the corporation or in the holding body corporate of the corporation.

Purchase  
of issued  
shares

**47.—**(1) Subject to subsection (2) and to its by-laws, a provincial corporation may, on notice to the Superintendent, purchase or otherwise acquire shares issued by it to,

- (a) settle or compromise a debt or claim asserted by or against the corporation;
- (b) eliminate fractional shares; or
- (c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

Restriction  
on payment

(2) A provincial corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired; or

(3) La compagnie provinciale qui a accordé des privilèges de conversion d'autres valeurs mobilières en ses propres actions, ou qui a accordé des options ou des droits d'acquérir ses actions, et dont le capital autorisé est limité par son acte constitutif, conserve toujours un nombre suffisant d'actions autorisées pour assurer l'exercice de ces privilèges, options ou droits.

Nécessité  
d'une réserve  
suffisante

**46** Sauf dispositions contraires des articles 47 à 49, la compagnie provinciale ne doit pas :

Une filiale ne  
peut être  
titulaire des  
actions de sa  
personne  
morale mère

- a) détenir ses propres actions ni celles de sa personne morale mère;
- b) permettre à ses filiales de détenir ses actions ni celles de sa personne morale mère.

**47** (1) Sous réserve du paragraphe (2) et de son règlement intérieur, la compagnie provinciale peut, sur avis au surintendant, acheter ou autrement acquérir les actions qu'elle a émises, afin :

Acquisition  
de ses pro-  
pres actions

- a) d'effectuer une transaction relative à une créance ou une demande contre la compagnie ou en sa faveur;
- b) d'éliminer le fractionnement de ses actions;
- c) d'exécuter un contrat incessible aux termes duquel la compagnie a une option ou l'obligation d'acheter les actions d'un ancien ou présent administrateur, dirigeant ou employé de la compagnie.

(2) La compagnie provinciale ne doit faire aucun versement en vue d'acheter ou d'acquérir en vertu du paragraphe (1) les actions qu'elle a émises, s'il existe des motifs raisonnables de croire que :

Restriction au  
rembourse-  
ment

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
  - (i) son passif,
  - (ii) les sommes nécessaires au remboursement, en cas de rachat ou de liquidation, des actions payables par préférence, par rapport aux actions que la compagnie se propose d'acheter ou d'acquérir;

- (c) the effect of the purchase or acquisition would be to cause the corporation to be in contravention of this Act or the regulations.

Redemption  
of shares

**48.**—(1) Subject to subsection (2) and to its by-laws and on notice to the Superintendent, a provincial corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price calculated according to a formula stated in the by-laws.

Restriction  
on  
redemption

(2) A provincial corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed; or

- (c) the effect of the redemption would be to cause the corporation to be in contravention of this Act or the regulations.

Donation of  
share

**49.** A provincial corporation may accept from any shareholder a share of the corporation surrendered to it as a gift.

Reduction of  
stated capital  
account

**50.**—(1) Subject to subsection (4) and its instrument of incorporation, a provincial corporation, by special resolution and with the approval of the Superintendent, may reduce its stated capital for any purpose.

Right to  
vote

(2) Where a class or series of shares of a provincial corporation would be affected by a reduction of stated capital under subsection (1) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote.

- c) la compagnie contreviendrait, du fait de l'achat ou de l'acquisition, à la présente loi ou aux règlements.

**48** (1) Sous réserve du paragraphe (2) et de son règlement intérieur, la compagnie provinciale peut, sur avis au surintendant, acheter ou racheter des actions rachetables qu'elle a émises, à un prix qui ne dépasse pas le prix de rachat calculé selon la formule énoncée au règlement intérieur.

Rachat des actions

(2) La compagnie provinciale ne doit faire aucun versement en vue d'acheter ou de racheter les actions rachetables qu'elle a émises, s'il existe des motifs raisonnables de croire que :

Restrictions au rachat

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
- (i) son passif,
- (ii) les sommes nécessaires au remboursement, en cas de rachat ou de liquidation, des actions payables au prorata ou par préférence, par rapport aux actions que la compagnie se propose d'acheter ou d'acquérir;
- c) la compagnie contreviendrait, du fait du rachat, à la présente loi ou aux règlements.

**49** La compagnie provinciale peut accepter que les actions qu'elle a émises lui soient remises par un actionnaire à titre de donation.

Donation d'actions

**50** (1) Sous réserve du paragraphe (4) et de son acte constitutif, la compagnie provinciale peut, par résolution spéciale et avec l'autorisation du surintendant, réduire son capital déclaré à toutes fins.

Réduction du compte capital déclaré

(2) Dans le cas où une réduction du capital déclaré aux termes du paragraphe (1) aurait une incidence particulière sur une catégorie ou une série distincte d'actions, leurs détenteurs ont le droit de voter séparément sur la proposition en tant que détenteurs de ces actions, que celles-ci comportent ou non le droit de vote.

Droit de vote

Account  
reduced to  
be  
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital affected by the special resolution will be made.

Restriction  
on reduction

(4) A provincial corporation shall not take any action to reduce its stated capital for any purpose (other than the purpose of declaring it to be reduced by an amount that is not represented by realizable assets) if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due;
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities; or
- (c) the effect of the reduction would be to cause the corporation to be in contravention of this Act or the regulations.

Application  
for order  
where  
improper  
reduction

(5) A shareholder, creditor or depositor of a provincial corporation is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Action  
against class

(6) Where it appears that there are numerous shareholders who may be liable under this section, the High Court of Justice may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes a claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined.

Shareholder  
holding  
shares  
in fiduciary  
capacity

(7) No person holding shares in the capacity of a personal representative and registered on the records of the provincial corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the named person is subject to all the liabilities imposed by this section.

Liability  
not affected

(8) This section does not affect any liability that arises under section 106.



(3) La résolution spéciale adoptée aux termes du présent article indique le ou les comptes capital déclaré au débit desquels seront portées les réductions.

Indication des  
comptes  
affectés

(4) La compagnie provinciale ne doit accomplir aucun acte visant à réduire son capital déclaré, autre qu'aux fins de le déclarer réduit d'une somme qui ne représente pas des biens réalisables de l'actif, s'il existe des motifs raisonnables de croire que :

Limite à la  
réduction

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure à son passif;
- c) la compagnie contreviendrait, du fait de la réduction, à la présente loi ou aux règlements.

(5) L'actionnaire, le créancier ou le déposant de la compagnie provinciale peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance enjoignant à un actionnaire ou à un autre bénéficiaire de restituer à la compagnie les sommes versées ou les biens remis à l'actionnaire ou à l'autre bénéficiaire à la suite d'une réduction de capital non conforme au présent article.

Requête en  
cas de réduction  
injustifiée

(6) S'il paraît que plusieurs actionnaires peuvent être responsables en vertu du présent article, la Haute Cour peut permettre qu'une action soit intentée contre un ou plusieurs d'entre eux en tant que représentants du groupe. Si le demandeur établit le bien-fondé de sa réclamation, la Haute Cour peut renvoyer l'action devant un arbitre et, à cette fin, joindre comme parties tous les actionnaires reconnus à ce titre. L'arbitre fixe la quote-part que chacun doit contribuer à la somme due au demandeur et peut ordonner que les quote-parts soient versées. La quote-part d'un seul actionnaire ne peut cependant pas dépasser la somme visée au paragraphe (5).

Recours contre un groupe

(7) Aucune personne qui détient des actions en qualité d'ayant droit et qui est inscrite aux registres de la compagnie à la fois comme l'ayant droit d'une personne désignée et comme actionnaire, n'est personnellement responsable en vertu du présent article. La personne désignée conserve cependant cette responsabilité.

Actionnaire  
en qualité de  
fiduciaire

(8) Le présent article n'a pas d'incidence sur les obligations qui naissent de l'article 106.

Les  
obligations  
demeurent



Reduction of  
stated capital  
account

**51.**—(1) Upon a purchase, redemption or other acquisition by a provincial corporation under section 47, 48 or 55 of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Adjustment  
in stated  
capital  
account

(2) A provincial corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 50 (3).

Idem

(3) Upon a change in issued shares of a provincial corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

- (a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(4) For the purpose of subsection (3), where a provincial corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of  
shares  
purchased

(5) Shares of any class or series or fractional shares issued by a provincial corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the instrument of incorporation limits the number of authorized shares

**51** (1) La compagnie provinciale qui acquiert, notamment par achat ou rachat, en vertu des articles 47, 48 ou 55, des actions ou fractions d'actions qu'elle a émises, débite le compte capital déclaré de la catégorie ou de la série pertinente, du produit obtenu en multipliant le capital déclaré des actions de cette catégorie ou série par le nombre d'actions ou de fractions d'actions ainsi acquises, divisé par le nombre d'actions émises de cette catégorie ou série qui existaient immédiatement avant l'acquisition.

Somme débitée au compte lors de l'acquisition d'actions, etc.

(2) La compagnie provinciale rectifie ses comptes capital déclaré conformément aux résolutions spéciales visées au paragraphe 50 (3).

Rectification des comptes capital déclaré

(3) La compagnie provinciale qui effectue le changement de catégorie ou de série de ses actions, ou leur conversion conformément aux conditions qui s'y rattachent, porte :

Idem

- a) au débit du compte capital déclaré de la catégorie ou de la série initiale, le produit obtenu en multipliant le capital déclaré des actions de cette catégorie ou série par le nombre d'actions qui ont fait l'objet du changement ou de la conversion à une autre catégorie ou série, divisé par le nombre d'actions émises de cette catégorie ou série qui existaient immédiatement avant le changement ou la conversion;
- b) au crédit du compte capital déclaré de la catégorie ou série nouvelle, le produit obtenu aux termes de l'alinéa a) ainsi que tout apport supplémentaire reçu au titre de la conversion ou du changement.

(4) Pour l'application du paragraphe (3), lorsque la compagnie provinciale émet deux catégories ou séries d'actions donnant un droit de conversion réciproque, le montant du capital déclaré attribué à une action de l'une ou l'autre catégorie ou série est égal au montant qui correspond à la somme du capital déclaré des deux catégories ou séries, divisé par le nombre d'actions émises de chacune d'elles qui existaient immédiatement avant la conversion.

Idem

(5) Les actions ou fractions d'actions de toutes les catégories ou séries émises par la compagnie provinciale et acquises par elle, notamment par achat ou rachat, sont annulées. Toutefois, si le nombre d'actions autorisées de la catégorie ou série est limité par l'acte constitutif, celles-ci peuvent redevenir des actions autorisées non émises de la catégorie ou de la série donnée.

Statut des actions acquises

of the class or series, may be restored to the status of authorized but unissued shares of the class or series.

Conversion  
of shares

(6) Where shares of a class or series are changed or converted pursuant to their terms into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted.

Contract with  
corporation  
re  
purchase of  
its shares

**52.**—(1) A contract with a provincial corporation providing for the purchase by it of its own shares is specifically enforceable against it except to the extent that it can not perform the contract without thereby being in breach of section 47 or 48.

Idem

(2) In any action brought on a contract referred to in subsection (1), the provincial corporation has the burden of proving that performance thereof is prevented by section 47 or 48.

Idem

(3) Until the provincial corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of depositors, creditors and holders of subordinated notes but in priority to the other shareholders.

Commission  
on sale

**53.** The directors of a provincial corporation may authorize the corporation to pay a reasonable commission to any person in consideration of the person,

(a) purchasing or agreeing to purchase shares of the corporation from it or from any other person; or

(b) procuring or agreeing to procure purchasers for any such shares.

Declaration  
of  
dividends

**54.**—(1) The directors of a provincial corporation may declare and a provincial corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a provincial corporation may pay a dividend in money or property.

Share  
dividend

(2) If shares of a provincial corporation are issued in payment of a dividend, it shall add to the stated capital account for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money.

(6) Si les actions d'une catégorie ou série font l'objet d'un changement ou d'une conversion conformément aux conditions qui s'y rattachent, en un nombre égal ou différent d'actions de la nouvelle catégorie ou série, ces actions sont assimilées aux actions de leur nouvelle catégorie ou série.

Conversion  
des actions

**52** (1) La compagnie provinciale peut être tenue d'exécuter intégralement les contrats qu'elle a conclus en vue de l'achat de ses propres actions, dans la mesure où elle ne contrevient pas de ce fait aux articles 47 ou 48.

Contrat d'achat de ses  
propres  
actions

(2) Dans toute instance relative au contrat mentionné au paragraphe (1), le fardeau de prouver que l'exécution de ce contrat est prohibée par les articles 47 ou 48 revient à la compagnie.

Idem

(3) Jusqu'à l'exécution complète du contrat mentionné au paragraphe (1), le cocontractant conserve le droit d'être payé dès que la compagnie est légalement en mesure de le faire, ou lors d'une liquidation, d'être colloqué à la suite des déposants, des créanciers et des détenteurs de titres subalternes, mais par préférence aux autres actionnaires.

Idem

**53** Les administrateurs d'une compagnie provinciale peuvent autoriser la compagnie à verser une commission raisonnable à la personne :

Commission  
sur la vente  
des actions

- a) qui achète ou convient d'acheter des actions de la compagnie, soit de cette dernière, soit d'une autre personne;
- b) qui fait acheter des actions de celle-ci ou qui s'engage à le faire.

**54** (1) Les administrateurs de la compagnie provinciale peuvent déclarer un dividende. La compagnie peut payer ce dividende par l'émission d'actions entièrement libérées de la compagnie, en options ou en droits d'acquérir ces actions, ou, sous réserve du paragraphe (3), en monnaie ou en biens.

Déclaration  
de dividendes

(2) Si le paiement d'un dividende est effectué par l'émission d'actions, la compagnie provinciale porte au crédit du compte capital déclaré de la catégorie ou série pertinente le montant déclaré du dividende, en monnaie.

Dividende  
sous forme  
d'actions



When  
dividend  
not to be  
declared

(3) The directors shall not declare a dividend if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the lesser of the book value and the realizable value of the corporation's assets would thereby be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) its stated capital of all classes; or
- (c) the effect of the payment would be to cause the corporation to be in contravention of this Act or the regulations.

Lien on  
shares

**55.**—(1) The by-laws of a provincial corporation may provide that it has a lien on a share registered in the name of a shareholder or the shareholder's personal representative for a debt of that shareholder to the provincial corporation.

Where  
subs. (1)  
does not  
apply

(2) Subsection (1) does not apply to a provincial corporation that has shares listed on, or traded through the facilities of, a stock exchange recognized by the Ontario Securities Commission.

Enforcement  
of lien

(3) A provincial corporation may enforce a lien referred to in subsection (1) in accordance with its by-laws.

Restrictions  
on issue,  
transfer, etc.

**56.** A provincial corporation shall not impose restrictions on the issue, transfer or ownership of shares of any class or series except such restrictions as are authorized by its instrument of incorporation and this Act.

Investment  
securities  
1982, c. 4

**57.** Part VI of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Insider  
liability

**58.** Part X of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.



Definitions

**59.**—(1) In this section and in sections 60 and 61,

(3) Les administrateurs ne doivent pas déclarer un dividende et la compagnie provinciale ne doit pas le payer s'il existe des motifs raisonnables de croire que :

Cas où la déclaration d'un dividende est prohibée

- a) celle-ci ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la moins élevée de la valeur comptable et la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
  - (i) son passif,
  - (ii) son capital déclaré de toutes catégories;
- c) la compagnie contreviendrait, du fait de payer le dividende, à la présente loi ou aux règlements.

**55** (1) Le règlement intérieur de la compagnie provinciale peut prévoir que l'action inscrite au nom de l'actionnaire ou de son ayant droit est grevée d'un privilège relativement à une dette de l'actionnaire envers la compagnie.

Privilège sur les actions

(2) Le paragraphe (1) ne s'applique pas à la compagnie provinciale dont les actions sont cotées ou négociées à une bourse reconnue par la Commission des valeurs mobilières de l'Ontario.

Non-application du par. (1)

(3) La compagnie provinciale peut, conformément à son règlement intérieur, réaliser le privilège visé au paragraphe (1).

Réalisation du privilège

**56** La compagnie provinciale ne doit pas imposer de restrictions à l'émission, au transfert ou au droit de propriété de ses actions de quelque catégorie ou série, à l'exception des restrictions qu'autorisent son acte constitutif et la présente loi.

Restrictions à l'émission, au transfert, etc.

**57** La partie VI de la *Loi de 1982 sur les compagnies* s'applique, avec les adaptations nécessaires, à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée en vertu de cette loi.

Valeurs de placement  
1982, chap. 4

**58** La partie X de la *Loi de 1982 sur les compagnies* s'applique, avec les adaptations nécessaires, à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée en vertu de cette loi.

Responsabilité des initiés

**59** (1) Les définitions qui suivent s'appliquent au présent article et aux articles 60 et 61.

Définitions



“personnes  
ayant des  
liens...”

“associates of the non-resident” means, with reference to any particular time,

- (a) the shareholders associated with the non-resident at that time, and
- (b) the persons who would be associated with the non-resident at that time were the persons and the non-resident themselves shareholders;


“non-  
résident”

“non-resident” means,

- (a) an individual who is not a resident Canadian,
- (b) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada,
- (c) a body corporate that is controlled directly or indirectly by non-residents as defined in clause (a) or (b),
- (d) a trust established by a non-resident as defined in clause (a), (b) or (c) or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest,
- (e) a body corporate that is controlled directly or indirectly by a trust mentioned in clause (d),

but does not include a mutual insurance company that writes life insurance, is incorporated in Canada and has its head office in Canada, if at least 75 per cent of its directors are resident Canadians;

“actions  
détenues  
par...”

“shares held by or for the non-resident and associates” means, with reference to any particular time, the aggregate number of voting shares held at that time in the name or right of, or for the use or benefit of, the non-resident and associates of the non-resident at that time. 

Associated  
shareholder

(2) For the purposes of this section and sections 60 and 61, a shareholder is associated with another shareholder if,

- (a) one shareholder is a body corporate of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;

«actions détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux» En ce qui concerne un moment donné, la totalité des actions assorties du droit de vote et détenues à ce moment par le non-résident et les personnes ayant à ce moment des liens avec le non-résident, en leurs noms, pour leur compte ou à leur usage ou profit.

«shares held by....»

«non-résident» S'entend :


«non-resident»

- a) du particulier qui n'est pas résident canadien;
- b) de la personne morale constituée, formée ou autrement organisée ailleurs qu'au Canada;
- c) de la personne morale dont des non-résidents, tels que définis aux alinéas a) ou b), ont directement ou indirectement le contrôle;
- d) de la fiducie constituée par un non-résident, tel que défini aux alinéas a), b) ou c), ou de la fiducie dont cette personne est bénéficiaire dans une proportion de plus de 50 pour cent;
- e) de la personne morale dont une fiducie visée à l'alinéa d) a directement ou indirectement le contrôle.

Est toutefois exclue la société d'assurance mutuelle qui fait souscrire de l'assurance-vie, qui a été constituée en personne morale au Canada et dont le siège social se trouve au Canada, si au moins 75 pour cent de ses administrateurs sont des résidents canadiens.

«personnes ayant des liens avec le non-résident» S'entend, en ce qui concerne un moment donné :

«associates of the non-resident»

- a) d'une part, des actionnaires ayant des liens avec le non-résident à ce moment;
- b) d'autre part, des personnes qui auraient des liens avec le non-résident à ce moment si elles et lui étaient eux-mêmes des actionnaires. 

(2) Pour l'application du présent article et des articles 60 et 61, deux actionnaires ont des liens entre eux, si, selon le cas :

Actionnaires ayant des liens entre eux

- a) l'un des actionnaires est une personne morale dont l'autre est un dirigeant ou un administrateur;
- b) l'un des actionnaires est une société dont l'autre est l'associé;

- (c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust that relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clause (a), (b), (c), (d) or (e) with the same shareholder.

Shares held jointly

(3) For the purposes of this section and sections 60 and 61, where a voting share of a provincial corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Deemed control

(4) For the purposes of this section and sections 60 and 61, a body corporate shall be deemed to be controlled by another person or body corporate or by two or more bodies corporate if voting securities of the first-mentioned body corporate carrying more than 10 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or body or bodies corporate.

Exception for non-resident ownership of corporation

(5) Where immediately before its registration under this Act more than 50 per cent of the issued and outstanding voting shares of a provincial corporation are held in the name or right of, or for the use or benefit of, a non-resident, sections 60 and 61 do not apply in respect of the corporation until such time as there is no one non-resident in whose name or right or for whose use or benefit are held more than 50 per cent of the issued and outstanding voting shares of the corporation.

Limit on shares held by non-resident

**60.**—(1) The directors of a provincial corporation shall refuse to allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident,

- (a) if, when the total number of voting shares of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by non-residents;

- c) l'un des actionnaires est une personne morale contrôlée par l'autre, directement ou indirectement;
- d) les deux actionnaires sont des personnes morales contrôlées, directement ou indirectement, par la même personne physique ou morale;
- e) les deux actionnaires sont parties à une convention de vote fiduciaire relative aux actions d'une compagnie;
- f) les deux actionnaires ont des liens, au sens des aliénas a), b), c), d) ou e), avec le même actionnaire.

(3) Pour l'application du présent article et des articles 60 et 61, l'action d'une compagnie provinciale assortie du droit de vote qui est détenue en commun est réputée détenue par un non-résident lorsque l'un ou plusieurs des détenteurs communs sont des non-résidents.

Actions détenues en commun

(4) Pour l'application du présent article et des articles 60 et 61, une personne ou une ou plusieurs personnes morales sont réputées avoir le contrôle d'une autre personne morale si celles-ci détiennent ou sont bénéficiaires, autrement qu'à titre de garantie seulement, des valeurs mobilières de cette autre personne morale qui comportent plus de 10 pour cent des voix qui peuvent être exprimées pour élire les administrateurs.

Contrôle réputé

(5) Si, immédiatement avant l'inscription d'une compagnie provinciale aux termes de la présente loi, plus de 50 pour cent de ses actions émises, en circulation et assorties du droit de vote sont détenues au nom d'un non-résident, pour son compte ou à son usage ou profit, les articles 60 et 61 ne s'appliquent pas à l'égard de la compagnie. Cette exception cesse de s'appliquer lorsqu'il n'est plus détenu, au nom, pour le compte ou à l'usage ou au profit d'un non-résident particulier, plus de 50 pour cent des actions émises, en circulation et assorties du droit de vote de la compagnie.

Exception lorsqu'un non-résident est propriétaire de la compagnie

**60** (1) Les administrateurs d'une compagnie provinciale ne doivent pas permettre l'inscription, au registre de ses valeurs mobilières, du transfert en faveur de non-résidents d'actions assorties du droit de vote, si l'inscription de ce transfert devait avoir pour effet :

Limite au nombre d'actions détenues par des non-résidents

- a) d'augmenter le pourcentage de ces actions détenues par des non-résidents alors que leur nombre représente déjà plus de 25 pour cent du nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;

- (b) if, when the total number of voting shares of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding voting shares, the entry of the transfer would cause the total number of such shares held by non-residents to exceed 25 per cent of the total number of issued and outstanding voting shares;
- (c) if, when the total number of the voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, exceeds 10 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with the non-resident; or
- (d) if, when the total number of voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares held by the non-resident and by other shareholders associated with the non-resident, if any, to exceed 10 per cent of the issued and outstanding voting shares.



#### Exceptions

(2) Notwithstanding subsection (1), the directors of a provincial corporation may allow the entry of a transfer of a voting share of the corporation to a non-resident when it is shown on evidence satisfactory to them that,

- (a) the share was held in the right of or for the use or benefit of the non-resident immediately before the 17th day of June, 1970; or
- (b) the share was subscribed for by, or allotted or transferred to, the non-resident before the registration of the corporation under this Act but after the coming into force of this Act.



#### Allotment to non-resident

(3) The directors of a provincial corporation shall not allot, or allow the allotment of any voting shares of the corporation to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the securities register would be required to be refused by the directors.

#### Offence

(4) Default in complying with this section does not affect the validity of a transfer or allotment of voting shares of the provincial corporation that has been entered into the securities register of the corporation, but every director or officer




- b) de porter à plus de 25, alors qu'il est égal ou inférieur à ce chiffre, le pourcentage de ces actions détenues par des non-résidents, par rapport au nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;
- c) d'augmenter le pourcentage de ces actions détenues par un non-résident et les actionnaires qui ont des liens avec lui, le cas échéant, alors que leur nombre représente déjà plus de 10 pour cent du nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;
- d) de porter à plus de 10, alors qu'il est égal ou inférieur à ce chiffre, le pourcentage de ces actions détenues par un non-résident et les actionnaires qui ont des liens avec lui, le cas échéant, par rapport au nombre total d'actions émises et en circulation.



(2) Malgré le paragraphe (1), les administrateurs de la compagnie provinciale peuvent autoriser l'inscription du transfert en faveur d'un non-résident d'une action de la compagnie assortie du droit de vote s'ils sont convaincus par des preuves qui leur sont présentées :

Exceptions

- a) soit que l'action était, immédiatement avant le 17 juin 1970, détenue pour le compte du non-résident ou à son usage ou profit;
- b) soit que le non-résident a souscrit à l'action, ou qu'elle lui a été attribuée ou transférée, avant l'inscription de la compagnie aux termes de la présente loi, mais après l'entrée en vigueur de celle-ci. 

(3) Les administrateurs de la compagnie provinciale ne doivent pas attribuer ou permettre l'attribution à un non-résident d'actions de la compagnie assorties du droit de vote lorsque, si cette attribution équivalait à un transfert des actions, ceux-ci seraient tenus de refuser l'inscription de ce transfert dans le registre des valeurs mobilières.

Attribution à un non-résident

(4) Le défaut de se conformer au présent article n'a pas d'incidence sur la validité du transfert ou de l'attribution d'actions de la compagnie provinciale assorties du droit de vote qui a été inscrit au registre de ses valeurs mobilières. Toutefois, l'administrateur ou le dirigeant qui sciemment permet la contravention ou l'autorise est coupable d'une infraction.

Infraction



who authorizes or knowingly permits such default is guilty of an offence.

Voting by  
non-residents

**61.**—(1) Non-residents shall not exercise the voting rights attached to shares of a provincial corporation unless entered in the securities register of the corporation as a shareholder in respect of the shares.

Voting rights  
of nominees  
suspended

(2) Where a person who is a resident Canadian or a body corporate that is resident in Canada holds voting shares of a provincial corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the securities register of the corporation as the holder, the person shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Change of  
status while  
entered on  
books

(3) Where a person who is a resident Canadian or a body corporate that is resident in Canada becomes a non-resident while entered in the securities register of a provincial corporation as a shareholder and the number of voting shares of such person recorded in the securities register when added to those entered therein as owned by other non-residents exceed the limit set out in section 60, the person shall not exercise, in person or by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 60.

Voting rights  
of single  
non-resident  
owner

(4) Where any voting shares of a provincial corporation are held in the name of or in the right of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the securities register of the corporation before the 17th day of June, 1970 or is entered in the securities register under subsection 60 (2), no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held in the non-resident's name or in the non-resident's right or for the non-resident's use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

- (a) any shareholders associated with the non-resident;  
or
- (b) any persons who would be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding voting shares.

**61** (1) Le non-résident ne doit pas exercer le droit de vote rattaché aux actions d'une compagnie provinciale, sauf s'il est inscrit au registre des valeurs mobilières de la compagnie à titre de détenteur de ces actions.

Droit de vote  
des non-  
résidents

(2)-Le particulier qui est résident canadien et la personne morale qui réside au Canada ne doivent pas exercer, en personne, par procuration ou en vertu d'une convention de vote fiduciaire, le droit de vote rattaché aux actions assorties du droit de vote d'une compagnie provinciale que ceux-ci détiennent pour le compte d'un non-résident, ou à l'usage ou au profit de ce dernier, lorsque ce non-résident n'est pas inscrit à titre de détenteur de ces actions au registre des valeurs mobilières de la compagnie.

Suspension du  
droit de vote  
de l'intermé-  
diaire

(3) Le particulier qui est résident canadien ou la personne morale qui réside au Canada qui deviennent non-résidents lorsqu'ils sont des actionnaires inscrits au registre des valeurs mobilières de la compagnie provinciale, ne doivent pas exercer en personne, par procuration ou en vertu d'une convention de vote fiduciaire le droit de vote rattaché à leurs actions, dans la mesure où le nombre de ces actions, ajouté au montant des actions déjà inscrites au nom de non-résidents, dépasse la limite fixée à l'article 60.

Changement  
de statut en  
cours d'ins-  
cription

(4) Nul ne doit, en personne, par procuration ou en vertu d'une convention de vote fiduciaire, exercer le droit de vote rattaché aux actions d'une compagnie provinciale détenues par un non-résident, en son nom, pour son compte, à son usage ou à son profit, à l'exception des actions qui étaient, soit antérieurement au 17 juin 1970, soit aux termes du paragraphe 60 (2), inscrites à son nom dans le registre des valeurs mobilières. Cette disposition s'applique lorsque le montant des actions ainsi détenues, ajouté aux actions détenues au nom, pour le compte ou à l'usage ou au profit :

Droits de  
vote du  
non-résident  
particulier

- a) des actionnaires qui ont des liens avec le non-résident;
- b) des personnes qui seraient réputées avoir des liens avec lui si celles-ci ainsi que le non-résident étaient eux-mêmes actionnaires,

représente en nombre plus de 10 pour cent des actions assorties du droit de vote, émises et en circulation.

## Exception

(5) Subsection (4) does not apply so as to prevent the exercise of voting rights pertaining to shares of a provincial corporation by a non-resident so long as the percentage of issued and outstanding voting shares held by or for the non-resident and associates does not exceed either the percentage of such shares held by or for the non-resident and associates immediately before the registration of the corporation or the smallest percentage of such shares held by or for the non-resident and associates at any subsequent time.

## Offence

(6) Every person who knowingly contravenes this section is guilty of an offence.

## Effect of contravention

(7) No proceeding, matter or thing at a general meeting of a provincial corporation is void by reason only of a contravention of this section, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a special resolution.

## Deemed holding body corporate

**62.**—(1) For the purposes of sections 63, 64 and 68, a person who, alone or with any related person, owns beneficially, directly or indirectly, 10 per cent or more of the total number of issued and outstanding shares of a class of voting shares of a corporation shall be deemed to be a holding body corporate and the shares and issue or transfer of shares of the holding body corporate shall be deemed to be shares or a transfer or issue of shares to which sections 63, 64 and 68 apply.

## Definition

(2) For the purposes of subsection (1), “person” includes a trust.

## Consent of Superintendent

**63.**—(1) No transfer or issue of voting shares of a provincial corporation shall be entered in its securities register until the consent of the Superintendent has been received by the corporation, if,

- (a) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders related to the person, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person; or
- (b) when the total number of shares of a class of voting shares of the provincial corporation held by a person and by other shareholders related to the person, if any, is 10 per cent or less of the total number of



(5) Le paragraphe (4) n'a pas pour effet d'empêcher l'exercice de droits de vote relatifs à des actions d'une compagnie provinciale par un non-résident tant que le pourcentage d'actions émises et en circulation assorties du droit de vote et détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux, ne dépasse pas soit le pourcentage de ces actions détenues par le résident et des personnes ayant des liens avec lui, ou pour eux, immédiatement avant l'inscription de la compagnie, soit le pourcentage plus bas de ces actions détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux, à n'importe quel moment par la suite.

Exception



(6) Toute personne qui sciemment contrevient au présent article est coupable d'une infraction.

Infraction

(7) Les actes, affaires ou objets faits ou accomplis lors de l'assemblée générale de la compagnie provinciale ne sont pas invalides pour le seul motif qu'il y a eu contravention au présent article. Ceux-ci sont toutefois susceptibles d'annulation, au choix des actionnaires, au cours de l'année qui suit le jour du début de l'assemblée générale au cours de laquelle s'est produite la contravention. L'annulation se fait par voie de résolution spéciale.

Effets de la  
contravention

**62** (1) Pour l'application des articles 63, 64 et 68, est réputée une personne morale mère la personne qui, seule ou de concert avec une autre personne qui lui est liée, est propriétaire à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus du nombre total d'actions émises et en circulation d'une catégorie d'actions d'une compagnie assorties du droit de vote. Les actions ainsi que l'émission et le transfert des actions de la personne morale mère sont alors réputés subordonnés à l'application des articles 63, 64 et 68.

Personne  
morale mère  
réputée

(2) Pour l'application du paragraphe (1), le terme «personne» s'entend en outre d'une fiducie.

Définition



**63** (1) Jusqu'à ce que le consentement du surintendant ait été reçu, il ne doit être inscrit au registre des valeurs mobilières de la compagnie provinciale aucun transfert ni émission de ses actions assorties du droit de vote, si ce transfert ou cette émission devait avoir pour effet :

Consentement  
du surinten-  
dant

- a) d'augmenter le pourcentage d'une catégorie donnée de ces actions détenues par cette personne et par les actionnaires qui lui sont liés, le cas échéant, lorsque leur nombre représente déjà plus de 10 pour cent du nombre total d'actions de cette catégorie émises et en circulation;
- b) de porter à plus de 10, lorsqu'il est égal ou inférieur à ce chiffre, le pourcentage des actions de cette



issued and outstanding shares of that class, the transfer or issue would cause the total number of shares of that class held by such person and by other shareholders related to the person, if any, to exceed 10 per cent of the issued and outstanding shares of that class,

and until the consent of the Superintendent is received by the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any of the voting shares that are held by or in the name of the shareholder or by or in the name of any person related to the shareholder.

Exception

(2) The consent of the Superintendent is not required if the number of shares of the class of voting shares to be transferred or issued to a person, when added to the number of other shares of that class transferred or issued to the person and other shareholders related to the person since the later of,

(a) the day this Act came into force; and

(b) the day immediately preceding the day the most recent consent was given under this section with respect to the person or a shareholder related to the person,

is less than 2.5 per cent of the issued and outstanding shares of that class on that day.

Idem

(3) The exception set out in subsection (2) does not apply to a transfer or issue of shares that would result in a change of control in the corporation.

Exception

R.S.O. 1980,  
c. 466

(4) The consent of the Superintendent is not required in respect of a transfer or issue of shares to an underwriter, as defined in section 1 of the *Securities Act*, who receives them in that capacity.

Application  
to  
Superin-  
tendent

(5) A person to whom shares are to be transferred or issued in circumstances that require the consent of the Superintendent may apply for the consent and, for the purposes of the application, the person shall provide the Superintendent with such information as the Superintendent may request.

Refusal of  
consent

(6) On an application under subsection (5), the Superintendent may refuse consent where, in his or her opinion, it would be in the public interest to do so and, without limiting the generality of the foregoing, the Superintendent may refuse consent where the shareholder or any person related to the shareholder,

catégorie détenues par cette personne et les actionnaires qui lui sont liées, le cas échéant, par rapport au nombre total d'actions de cette catégorie, émises et en circulation.

Jusqu'à ce que le consentement ait été reçu, nul ne doit non plus, en personne ou par procuration, exercer le droit de vote rattaché aux actions détenues par l'actionnaire ou la personne qui lui est liée, ou en leurs noms.



(2) Le consentement du surintendant n'est pas requis si le nombre d'actions de la catégorie d'actions assorties du droit de vote à transférer ou à émettre en faveur d'une personne, ajouté au nombre des actions de cette catégorie qui ont été transférées ou émises en faveur de cette personne ou d'autres actionnaires qui lui sont liés, depuis :

Exception

- a) le jour de l'entrée en vigueur de la présente loi;
- b) le jour précédant immédiatement le jour où le consentement le plus récent a été donné aux termes du présent article à l'égard de la personne ou d'un actionnaire qui lui est lié,

selon le plus récent de ces jours, est inférieur à 2,5 pour cent du nombre des actions de cette catégorie qui sont, ce jour-là, émises et en circulation.

(3) L'exception visée au paragraphe (2) ne s'applique ni au transfert ni à l'émission d'actions qui entraîneraient le transfert du contrôle de la compagnie.

Idem

(4) Le consentement du surintendant n'est pas requis à l'égard d'un transfert ou d'une émission d'actions en faveur d'un souscripteur à forfait, au sens de l'article 1 de la *Loi sur les valeurs mobilières*, qui reçoit les actions en cette qualité.

Exception

L.R.O. 1980,  
chap. 466



(5) La personne en faveur de qui des actions doivent être transférées ou émises dans des circonstances où le consentement du surintendant est requis peut s'adresser à ce dernier en vue d'obtenir ce consentement, et lui fournit à cette fin les renseignements qu'il peut exiger.

Demande  
adressée au  
surintendant

(6) Le surintendant peut refuser de consentir à la demande visée au paragraphe (5) si, à son avis, il en va de l'intérêt public, notamment si l'actionnaire ou la personne qui est liée à lui :

Consentement  
refusé



- (a) is or has been bankrupt;
- (b) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act*;
- (c) is or has been subject to a cease trading order under the *Securities Act*;
- (d) is the subject of an examination under section 186 or an investigation under section 206;
- (e) is contravening any provision of this Act or the regulations or of any comparable legislation of another jurisdiction or of any undertaking given to the Superintendent; or
- (f) has failed to provide the information requested under subsection (5).

R.S.O. 1980,  
c. 466

Effective  
date of  
consent

(7) The consent of the Superintendent under this section takes effect on the date set out in the consent and the effective date may be a date before the date the consent is given.



Declaration  
may be  
required

**64.** The Superintendent may in writing direct a provincial corporation to obtain from a person in whose name a share is registered in the securities register of the corporation or who is the beneficial owner of a share of the corporation a declaration containing information,

- (a) concerning the ownership or beneficial ownership of such share;
- (b) as to whether such share is owned or beneficially owned by a person who is related to any other person and the name of that other person where applicable;
- (c) concerning the ownership or beneficial ownership of the shares of a holding body corporate; and
- (d) concerning such other matters as are specified by the Superintendent,

and as soon as possible after the receipt of a direction from the Superintendent under this section, the directors of the corporation shall comply therewith and every person who is requested by the corporation to provide a declaration in the prescribed form containing information referred to in this sub-

- a) a ou a déjà eu le statut de failli;
- b) a été reconnu coupable d'une infraction criminelle ou d'une infraction à la présente loi ou à la *Loi sur les valeurs mobilières*;
- c) a fait l'objet d'une ordonnance d'interdiction d'opération aux termes de la *Loi sur les valeurs mobilières*;
- d) fait l'objet d'un examen aux termes de l'article 186 ou d'une enquête aux termes de l'article 206;
- e) contrevient à une disposition de la présente loi, des règlements, d'une loi semblable d'une autre compétence législative, ou d'un engagement pris envers le surintendant;
- f) n'a pas fourni les renseignements exigés aux termes du paragraphe (5).

L.R.O. 1980,  
chap. 466

(7) Le consentement du surintendant aux termes du présent article prend effet à la date précisée dans le document, qui peut être antérieure à la date du consentement.


Date de prise  
d'effet du  
consentement

**64** Le surintendant peut ordonner par écrit à une compagnie provinciale d'obtenir d'une personne au nom de laquelle une action est inscrite au registre des valeurs mobilières de la compagnie, ou d'une personne qui est propriétaire à titre bénéficiaire d'une action de la compagnie, un relevé qui reproduit des renseignements ayant trait :

Relevé exigé

- a) à la propriété ou à la propriété à titre bénéficiaire de l'action;
- b) au fait que la propriété ou la propriété à titre bénéficiaire appartient à une personne liée à une autre personne, et le nom de cette autre personne, le cas échéant;
- c) à la propriété ou à la propriété à titre bénéficiaire des actions d'une personne morale mère;
- d) aux autres points que précise le surintendant.

Les administrateurs se conforment aux instructions du surintendant aux termes du présent article, dès leur réception. Chaque personne à qui la compagnie demande de présenter, selon la formule prescrite, le relevé des renseignements visés à

section shall forthwith comply with the request by submitting the completed declaration to the Superintendent. 

Hearing

**65.**—(1) Where the Superintendent proposes to refuse consent under section 63, he or she shall forthwith advise the applicant and shall give the applicant an opportunity to be heard before him or her.

Power of  
L.G. in C.

(2) Upon the petition of the applicant, filed with the Clerk of the Executive Council within twenty-eight days after the date of the decision of the Superintendent to refuse consent under section 63, the Lieutenant Governor in Council may,

- (a) confirm, vary or rescind the whole or any part of such decision; or
- (b) require the Superintendent to hold a new hearing of the whole or any part of the application to the Superintendent upon which such decision of the Superintendent was made.

Idem

(3) The decision of the Superintendent after the hearing under clause (2) (b) is not subject to petition under this section.

Decision  
final

(4) Except as provided in subsection (2), a decision of the Superintendent to refuse consent under section 63 is final and binding and no such decision or decision as confirmed or varied under subsection (2) shall be stayed, varied or set aside by any court.

Exemption


**66.** The Superintendent, with the approval of the Lieutenant Governor in Council, may by order exempt any corporation or other person from the application of sections 63 to 65, in whole or in part, on such terms and conditions as are set out in the order and where any such order is filed with the corporation named in the order, it shall be deemed to be a consent of the Superintendent for the purpose of section 63, so long as the terms and conditions of the order have been complied with.

Transfer  
valid only  
after entry

**67.**—(1) No transfer of shares of a provincial corporation, unless made by a sale under execution or under the order or judgment of a court of competent jurisdiction, is valid for any purpose until the transfer has been entered in the securities register of the corporation.

Exceptions

(2) Notwithstanding subsection (1), a transfer of shares that has not been entered in the securities register of a provincial

ce paragraphe, se conforme sans délai à la demande et dépose ce relevé auprès du surintendant. 

**65** (1) Si le surintendant a l'intention de refuser son consentement aux termes de l'article 63, il en notifie sans délai l'auteur de la demande et lui fournit l'occasion de se faire entendre.

Audience

(2) Sur pétition de l'auteur de la demande déposée auprès du greffier du Conseil des ministres dans les vingt-huit jours de la décision du surintendant de refuser son consentement aux termes de l'article 63, le lieutenant-gouverneur en conseil peut :

Pouvoirs du lieutenant-gouverneur en conseil

- a) confirmer, modifier ou annuler la décision, en totalité ou en partie;
- b) enjoindre au surintendant de tenir une nouvelle audience concernant la totalité ou une partie de la demande visée par la décision du surintendant.

(3) La décision du surintendant rendue après l'audience tenue aux termes de l'alinéa (2) b) ne peut faire l'objet d'une pétition aux termes du présent article.

Idem

(4) Sous réserve du paragraphe (2), la décision du surintendant de refuser son consentement aux termes de l'article 63 est définitive et lie les parties. Elle ne peut non plus, dans sa forme originale ou confirmée ou modifiée en vertu du paragraphe (2), faire l'objet d'un sursis, de modifications ou d'annulation de la part d'aucun tribunal.

Décision définitive

**66** Le surintendant, avec l'approbation du lieutenant-gouverneur en conseil, peut prendre une ordonnance en vue de soustraire en tout ou en partie la compagnie ou une autre personne à l'application des articles 63 à 65, selon les conditions qui y sont précisées. Cette ordonnance, déposée auprès de la compagnie qui y est nommée, est réputée, tant que les conditions qui s'y rattachent ont été respectées, constituer le consentement du surintendant pour l'application de l'article 63.

Dispense

**67** (1) Le transfert d'actions d'une compagnie provinciale, sauf le transfert effectué lors de la saisie-exécution ou de la vente en justice ordonnée par le tribunal compétent, ne vaut que s'il est inscrit au registre des valeurs mobilières de la compagnie.

Inscription nécessaire à la validité

(2) Malgré le paragraphe (1), le transfert d'actions dont l'inscription ne figure pas aux registres des valeurs mobilières de la compagnie provinciale vaut entre les parties au transfert.

Exceptions

corporation is valid for the purpose of showing the rights as between the parties to the transfer.

By-laws

**68.**—(1) The directors of a provincial corporation may make by-laws,

- (a) requiring any person holding any voting share of the corporation to submit written declarations,
  - (i) with respect to the ownership of a share of the corporation or of the holding body corporate,
  - (ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
  - (iii) as to whether the shareholder is associated with or related to any other shareholder, and
  - (iv) with respect to such other matters as the directors consider relevant for the purposes of sections 60 to 67;
- (b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted; and
- (c) requiring any person desiring to have a transfer of a share to the person entered in the securities register of the corporation to submit such a declaration as may be required under this section in the case of a shareholder.

Where  
declaration  
pending

(2) Where under any by-law made under subsection (1), any declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may prohibit the entry of the transfer in the securities register of the corporation until the required declaration has been submitted.

Liability of  
directors, etc.

**69.** In determining, for the purposes of whether a person is a resident Canadian, body corporate resident in Canada or a non-resident, by whom a body corporate is controlled or any other circumstances relevant to the performance of their duties under sections 60 to 67, the directors of the provincial corporation and any other person acting as proxy for a shareholder of the provincial corporation may rely upon any statement made in any declarations made pursuant to a by-law made under subsection 68 (1) or rely upon their own knowledge of the circumstances, and the directors and any such person are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge.



**68** (1) Les administrateurs de la compagnie provinciale peuvent, par règlement intérieur :

Règlement  
intérieur

- a) exiger de la personne qui détient quelque action de la compagnie assortie du droit de vote de déposer par écrit des relevés concernant :
  - (i) la propriété d'une action de la compagnie ou de sa personne morale mère,
  - (ii) l'endroit où résident ordinairement l'actionnaire et la personne, le cas échéant, à l'usage ou au profit de laquelle l'action est détenue,
  - (iii) l'existence de liens entre deux actionnaires ou le fait que ceux-ci soient liés,
  - (iv) les autres points que les administrateurs jugent pertinents pour l'application des articles 60 à 67;
- b) prescrire les moments et le mode de présentation des relevés visés à l'alinéa a);
- c) exiger de la personne qui désire que le transfert d'une action en sa faveur soit inscrite au registre des valeurs mobilières de la compagnie que celle-ci présente le relevé qui peut être exigé de l'actionnaire en vertu du présent article.

(2) Les administrateurs peuvent interdire l'inscription du transfert au registre des valeurs mobilières de la compagnie jusqu'à ce qu'ait été présenté le relevé exigé de l'actionnaire ou d'une autre personne relativement au transfert d'une action aux termes du règlement intérieur pris en application du paragraphe (1).

Relevé à  
recevoir

**69** Afin de déterminer le statut de résident canadien ou de non-résident d'une personne physique ou morale qui contrôle une personne morale ou d'autres faits relatifs à l'exécution de leurs obligations aux termes des articles 60 à 67, les administrateurs de la compagnie provinciale et le fondé de pouvoir de son actionnaire peuvent se fier aux relevés dressés conformément au règlement intérieur pris en application du paragraphe 68 (1), ou à leur connaissance personnelle des faits. Les administrateurs et les fondés de pouvoir ne peuvent, lors d'une poursuite, être tenus responsables des actes qu'ils ont accomplis ou omis de faire de bonne foi en appliquant les con-

Responsabilité  
des adminis-  
trateurs, etc.



Shareholders  
liability  
limited

**70.** Except as otherwise provided in this Act, the shareholders of a provincial corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation.

Place of  
meetings

**71.** Subject to the by-laws, a meeting of shareholders of a provincial corporation shall be held at such place in Canada as the directors determine or, in the absence of such a determination, at its principal place of business.

Shareholders  
meeting

**72.** The directors of a provincial corporation,

- (a) shall call an annual meeting of shareholders not later than three months after the corporation comes into existence and subsequently not later than three months after each fiscal year end of the corporation; and
- (b) may call a special meeting of shareholders at any time.

Record date

**73.—(1)** For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

Idem

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held.

Where no  
date fixed

(3) Where no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
  - (i) at the close of business on the day immediately preceding the day on which the notice is given, or

clusions tirées de ces relevés ou fondées sur cette connaissance.

**70** Sauf disposition contraire de la présente loi, les actionnaires de la compagnie provinciale ne sont pas, à ce titre, responsables de ses obligations, actes ou omissions.

Responsabilité  
limitée des  
actionnaires

**71** Sous réserve du règlement intérieur, les assemblées des actionnaires d'une compagnie provinciale se tiennent à l'endroit au Canada que fixent les administrateurs, ou à défaut, à l'endroit où est situé l'établissement principal.

Lieu des  
assemblées

**72** Les administrateurs de la compagnie provinciale :

Assemblée  
des action-  
naires

- a) convoquent une assemblée annuelle des actionnaires au plus tard dans les trois mois de la création de la compagnie, et, par la suite, au plus tard trois mois après la fin de chaque exercice de la compagnie;
- b) peuvent convoquer des assemblées extraordinaires des actionnaires.

**73** (1) Les administrateurs peuvent fixer d'avance une date de clôture des registres qui tombe dans les cinquante jours précédant l'opération en cause, pour déterminer les actionnaires habiles :

Date de  
clôture des  
registres

- a) à recevoir les dividendes;
- b) à participer à la liquidation ou à la distribution;
- c) à toute autre fin, sauf en matière du droit de recevoir avis d'une assemblée ou d'y voter.

(2) Les administrateurs peuvent fixer d'avance une date de clôture des registres qui tombe entre le cinquantième et le vingt et unième jour précédant une assemblée des actionnaires, pour déterminer les actionnaires habiles à recevoir avis de cette assemblée.

Idem

(3) Si la date n'a pas été fixée, constitue la date de clôture des registres pour déterminer les actionnaires :

Date non  
fixée

- a) qui ont le droit de recevoir avis d'une assemblée :
  - (i) le jour précédant celui où cet avis est donné, à l'heure de fermeture des bureaux,

(ii) if no notice is given, the day on which the meeting is held; and

- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution therefor.

Notice of  
date

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register of the corporation at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the provincial corporation has its principal place of business and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading.

Notice

**74.**—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of a provincial corporation that is an offering corporation, not less than twenty-one days and, in the case of any other provincial corporation, not less than ten days, but, in either case, not more than fifty days before the meeting to each shareholder entitled to vote at the meeting, to each director and to the auditor.

Idem

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the securities register of the provincial corporation on the date determined under subsection 73 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

Adjournment

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

Idem

(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, section 111 of the *Business Corporations Act, 1982*, as incorporated into this Act by section 86, does not apply.

(ii) en l'absence d'avis, le jour de l'assemblée;

- b) ayant qualité à toutes fins sauf en ce qui concerne le droit de recevoir avis d'une assemblée ou le droit de vote, la date d'adoption de la résolution à ce sujet par les administrateurs, à l'heure de fermeture des bureaux.

(4) Dans le cas où une date de clôture des registres est fixée par les administrateurs, sauf renonciation écrite à l'avis de cette date par chaque actionnaire de la catégorie ou série visée dont le nom paraît au registre des valeurs mobilières à l'heure de fermeture des bureaux le jour où les administrateurs fixent la date de clôture des registres, l'avis de cette date est donné au moins sept jours avant la date ainsi fixée :

Avis de la date

- a) d'une part, dans un journal publié et distribué à l'endroit où est situé l'établissement principal de la compagnie provinciale de même qu'à chaque endroit au Canada où celle-ci a un agent des transferts ou à l'endroit au Canada où le transfert de ses actions peut être inscrit;
- b) d'autre part, au moyen d'un avis écrit envoyé à chaque bourse canadienne où sont cotées ses actions.

**74** (1) Un avis des date, heure et lieu de l'assemblée des actionnaires est envoyé, dans le cas d'une compagnie provinciale qui fait appel au public, entre le cinquantième et le vingt et unième jour qui la précèdent, et dans les autres cas entre le cinquantième et le dixième jour, à chaque actionnaire habile à y voter, à chaque administrateur et au vérificateur de la compagnie.

Avis

(2) Il n'est pas nécessaire d'envoyer l'avis aux actionnaires non inscrits sur le registre de la compagnie provinciale à la date de référence fixée en vertu des paragraphes 73 (2) ou (3). Toutefois, l'absence d'avis ne prive pas l'actionnaire de son droit de vote.

Idem

(3) Sauf disposition contraire du règlement intérieur, il suffit, pour donner avis de l'ajournement d'une assemblée pour une période de moins de trente jours, d'en faire l'annonce lors de l'assemblée initiale.

Ajournement

(4) Dans le cas d'ajournement de l'assemblée à plusieurs reprises pour une période totale d'au moins trente jours, l'avis est donné comme pour une nouvelle assemblée. Toutefois, l'article 111 de la *Loi de 1982 sur les compagnies*, incorporé à la présente loi par l'article 86, n'a d'application que dans le cas d'ajournement à une ou plusieurs reprises pour une période totale de plus de quatre-vingt-dix jours.

Idem

1982, chap. 4

Special  
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting.

Shareholders  
meeting

**75.** Subject to this Act and the by-laws of a provincial corporation,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to subsections 74 (3) and (4) and to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place; and
- (c) the president or, in the president's absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman.

Waiving  
notice

**76.** A shareholder and any other person entitled to attend a meeting of shareholders of a provincial corporation may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where the shareholder attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.



(5) Les délibérations des assemblées extraordinaires et annuelles sont réputées des questions spéciales. Font exception à cette règle l'examen du procès-verbal de l'assemblée précédente, des états financiers et du rapport du vérificateur, l'élection des administrateurs de même que le renouvellement du mandat du vérificateur.

Questions  
spéciales

(6) L'avis de l'assemblée dont l'ordre du jour comporte des questions spéciales énonce ou est accompagné d'une note énonçant :

Idem

- a) leur nature, avec suffisamment de détails pour permettre à l'actionnaire de se faire une idée éclairée de celle-ci;
- b) le texte de la résolution spéciale ou du règlement intérieur devant être soumis à l'assemblée.

**75** Sous réserve de la présente loi et du règlement intérieur d'une compagnie provinciale :

Assemblée  
des action-  
naires

- a) il est disposé des questions soumises à l'examen des actionnaires de la compagnie provinciale à la majorité des voix exprimées, et le président de l'assemblée n'a pas voix prépondérante en cas de partage des voix;
- b) le président de l'assemblée peut, avec le consentement de l'assemblée, sous réserve des paragraphes 74 (3) et (4), et sous réserve des conditions que l'assemblée impose, l'ajourner et en changer le lieu;
- c) le président, ou en son absence, un vice-président qui est administrateur, préside l'assemblée des actionnaires. Toutefois, en l'absence de ces personnes dans les quinze minutes qui suivent l'heure fixée pour la tenue de l'assemblée, les actionnaires présents choisissent parmi eux un président.

**76** Les actionnaires et les autres personnes qui ont le droit d'assister à une assemblée des actionnaires de la compagnie provinciale peuvent, de quelque façon que ce soit et à n'importe quel moment, renoncer à l'avis de convocation. Leur présence à l'assemblée équivaut à une telle renonciation, sauf lorsqu'elles y assistent spécialement pour s'opposer aux délibérations pour le motif que l'assemblée n'est pas régulièrement convoquée.

Renonciation  
à l'avis



Proposal

**77.**—(1) A shareholder of a provincial corporation entitled to vote at a meeting of shareholders may,

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which the shareholder would have been entitled to submit a proposal.

Circulating  
proposal

1982, c. 4

(2) Where a provincial corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 of the *Business Corporations Act, 1982*, as incorporated into this Act by section 86, or it shall attach the proposal to the information circular.

Statement in  
support of  
proposal

(3) If so requested by a shareholder giving notice of a proposal, the provincial corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder.

Proposal may  
include  
nominations

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders.

Where subss.  
(2, 3) do  
not apply

(5) A provincial corporation is not required to comply with subsections (2) and (3) where,

- (a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;

**77** (1) L'actionnaire de la compagnie provinciale habile à voter lors de l'assemblée des actionnaires peut :

Proposition

- a) déposer auprès de la compagnie un avis de proposition;
- b) discuter au cours de cette assemblée des questions qui auraient pu faire l'objet d'une proposition de sa part.

(2) La compagnie provinciale qui reçoit un avis de proposition et sollicite des procurations fait figurer la proposition dans la circulaire d'information de la direction exigée par l'article 112 de la *Loi de 1982 sur les compagnies*, incorporé à la présente loi par l'article 86, ou la fait annexer à la circulaire.

Diffusion de la proposition

1982, chap. 4

(3) À la demande de l'actionnaire qui donne l'avis de proposition, la compagnie provinciale inclut dans la circulaire d'information de la direction ou annexe à la circulaire un exposé d'au plus deux cents mots préparé par celui-ci à l'appui de la proposition, de même que ses nom et adresse.

Déclaration à l'appui de la proposition

(4) La proposition peut faire état de candidatures en vue de l'élection des administrateurs, si elle est signée par un ou plusieurs actionnaires détenant ensemble au moins 5 pour cent des actions ou de celles d'une catégorie ou série donnant le droit de vote lors de l'assemblée à laquelle les propositions doivent être présentées. Le présent paragraphe n'empêche toutefois pas la présentation de candidatures au cours de l'assemblée.

La proposition peut faire état de candidatures

(5) La compagnie provinciale n'est pas tenue de se conformer aux paragraphes (2) et (3) :

Non-application des par. (2) et (3)

- a) si la proposition ne lui est pas soumise au moins soixante jours avant l'expiration d'un délai d'un an à compter de la dernière assemblée annuelle lorsque la question doit être soulevée lors de l'assemblée annuelle, ou au moins soixante jours au préalable dans les autres cas;
- b) s'il apparaît nettement que la proposition a pour objet principal, soit une demande personnelle ou le redressement d'un grief personnel contre la compagnie ou l'un de ses administrateurs, dirigeants ou détenteurs de valeurs mobilières, soit une question qui n'a aucun lien important avec les affaires de la compagnie;

- (c) the corporation, at the shareholder's request, included a proposal in a management information circular relating to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or
- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years preceding the receipt of the shareholder's request and the proposal was defeated.

Where no  
liability

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

Where  
refusal  
to circulate  
proposal

(7) Where a provincial corporation refuses to include a proposal in a management information circular, it shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to the shareholder a statement of reasons for the refusal.

Application  
to Court

(8) Upon the application of a shareholder aggrieved by a provincial corporation's refusal under subsection (7), the High Court of Justice may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit.

Idem

(9) The provincial corporation or any person aggrieved by a proposal may apply to the High Court of Justice for an order permitting the provincial corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit.

Notice to  
Superin-  
tendent

(10) An applicant under subsection (8) or (9) shall give the Superintendent notice of the application and the Superintendent is entitled to appear and be heard in person or by counsel.

Definition

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders.

Lists of  
shareholders

**78.—**(1) A provincial corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

- c) si au cours des deux ans précédant la réception de sa demande, l'actionnaire avait omis de présenter à l'assemblée, en personne ou par son fondé de pouvoir, une proposition que la compagnie avait fait figurer, à sa demande, dans une circulaire d'information de la direction relative à cette assemblée;
- d) si une proposition à peu près identique a été soumise aux actionnaires dans une circulaire d'information de la direction, ou une circulaire d'information d'un dissident, relative à une assemblée qui a eu lieu dans les deux ans précédant la réception de la demande de l'actionnaire, et a été rejetée.

(6) La compagnie provinciale ou ses mandataires n'engagent pas leur responsabilité pour le seul motif qu'ils diffusent une proposition ou un exposé conformément au présent article.

Responsabilité

(7) La compagnie provinciale qui refuse d'inclure une proposition dans la circulaire d'information de la direction fait parvenir à l'actionnaire qui l'a soumise, dans les dix jours de sa réception, un avis exposant les motifs de son refus.

Refus de diffuser la proposition

(8) À la requête de l'actionnaire lésé par le refus de la compagnie provinciale communiqué aux termes du paragraphe (7), la Haute Cour peut interdire la tenue de l'assemblée au cours de laquelle on tente de présenter la proposition, et peut rendre l'ordonnance additionnelle qu'elle estime pertinente.

Requête

(9) La compagnie provinciale ou toute personne lésée par une proposition peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance autorisant la compagnie à omettre cette proposition de la circulaire d'information de la direction. Le tribunal peut rendre l'ordonnance qu'il estime pertinente s'il est convaincu que le paragraphe (5) s'applique.

Idem

(10) L'auteur de la requête présentée aux termes des paragraphes (8) ou (9) en donne avis au surintendant. Celui-ci peut comparaître et se faire entendre en personne ou par l'intermédiaire d'un avocat.

Avis au surintendant

(11) Dans le présent article, «proposition» s'entend de toute question qu'un actionnaire qui a le droit de voter se propose de soulever lors d'une assemblée des actionnaires.

Définition «proposal»

**78** (1) La compagnie provinciale dresse une liste alphabétique des actionnaires qui ont le droit de recevoir avis des assemblées, en y mentionnant le nombre d'actions détenues par chacun :

Liste des actionnaires



- (a) if a record date is fixed under subsection 73 (2), not later than ten days after such record date; or
- (b) if no record date is fixed,
  - (i) at the close of business on the day immediately preceding the day on which notice is given, or
  - (ii) where no notice is given, on the day on which the meeting is held.

Entitlement  
to vote

(2) Subject to sections 59 to 67, where a provincial corporation fixes a record date under subsection 73 (2), a person named in the list prepared under clause (1) (a) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the record date; and
  - (b) the transferee of those shares,
    - (i) produces properly endorsed share certificates, or
    - (ii) otherwise establishes ownership of the shares,
- and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Idem

(3) Subject to sections 59 to 67, where a provincial corporation does not fix a record date under subsection 73 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the date on which the list prepared under clause (1) (b) was prepared; and
- (b) the transferee of those shares,
  - (i) produces properly endorsed share certificates, or

- a) dans les dix jours suivant la date de clôture des registres, si elle est fixée en vertu du paragraphe 73 (2);
- b) à défaut d'une date de clôture des registres :
  - (i) à l'heure de fermeture des bureaux, la veille du jour de l'avis,
  - (ii) en l'absence d'avis, le jour de l'assemblée.

(2) Sous réserve des articles 59 à 67, si la compagnie provinciale fixe une date de clôture des registres aux termes du paragraphe 73 (2), les personnes inscrites sur la liste établie aux termes de l'alinéa (1) a) sont habiles à exercer, à l'assemblée visée par la liste, le droit de vote rattaché aux actions qui figurent en regard de leur nom. Toutefois, le cessionnaire de ces actions peut exercer ce droit dans la mesure où :

- a) d'une part, la cession est postérieure à la date de clôture des registres;
- b) d'autre part, le cessionnaire :
  - (i) ou bien produit les certificats d'actions régulièrement endossés,
  - (ii) ou bien fait d'une autre façon la preuve de son titre,

et exige, au moins dix jours avant l'assemblée ou dans le délai plus court établi par le règlement intérieur de la compagnie, l'inscription de son nom sur la liste.

(3) Sous réserve des articles 59 à 67, si la compagnie provinciale ne fixe aucune date de clôture des registres aux termes du paragraphe 73 (2), les personnes inscrites sur la liste établie aux termes de l'alinéa (1) b) sont habiles à exercer, à l'assemblée visée par la liste, le droit de vote rattaché aux actions qui figurent en regard de leur nom. Toutefois, le cessionnaire de ces actions peut exercer ce droit dans la mesure où :

- a) d'une part, la cession est postérieure à la date à laquelle la liste établie aux termes de l'alinéa (1) b) a été dressée;
- b) d'autre part, le cessionnaire :
  - (i) ou bien produit les certificats d'actions régulièrement endossés,



(ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Examination  
of list

(4) A shareholder of a provincial corporation may examine the list of shareholders,

(a) during usual business hours at the principal place of business of the corporation or at the place where its securities register is maintained; and

(b) at the meeting of shareholders for which the list was prepared.

Quorum

**79.**—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Voting rights

**80.**—(1) Each share in a class of shares of a provincial corporation entitles the holder to one vote at all meetings of holders of that class of shares.

Representative

(2) Where a body corporate or association is a shareholder of a provincial corporation, the provincial corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the provincial corporation.

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he or she represents all the powers it could exercise if it were an individual shareholder.

- (ii) ou bien fait d'une autre façon la preuve de son titre,

et exige au moins dix jours avant l'assemblée ou dans le délai plus court établi par le règlement intérieur de la compagnie, l'inscription de son nom sur la liste.

(4) L'actionnaire d'une compagnie provinciale peut consulter la liste des actionnaires :

Consultation  
de la liste

- a) pendant les heures de bureau à l'établissement principal de la compagnie ou à l'endroit où est situé son registre des valeurs mobilières;
- b) lors de l'assemblée des actionnaires pour laquelle la liste a été préparée.

**79** (1) Sauf disposition contraire du règlement intérieur, le détenteurs d'actions disposant de la majorité des voix qui peuvent être exprimées lors d'une assemblée des actionnaires.

Quorum

(2) Sauf disposition contraire du règlement intérieur, il suffit que le quorum soit atteint à l'ouverture de l'assemblée pour que les actionnaires présents puissent délibérer.

Idem

(3) En l'absence de quorum, à l'ouverture de l'assemblée ou après une période de temps que les actionnaires présents jugent suffisante, ces derniers peuvent ajourner l'assemblée à une date, une heure et un lieu précis, mais ne peuvent autrement délibérer.

Idem

**80** (1) Chaque action d'une catégorie d'actions de la compagnie provinciale donne au détenteur le droit d'exprimer une voix aux assemblées des actionnaires détenteurs des actions de cette catégorie.

Droit de vote

(2) La compagnie provinciale qui compte parmi ses actionnaires une personne morale ou une association permet au particulier autorisé à cette fin par résolution des administrateurs ou de la direction de la personne morale ou de l'association de la représenter aux assemblées des actionnaires.

Représentant

(3) Le particulier accrédité aux termes du paragraphe (2) peut exercer, pour le compte de la personne morale ou de l'association qu'il représente, tous les pouvoirs que cette dernière pourrait exercer à titre d'actionnaire si elle était un particulier.

Idem

Joint  
shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them.

Method of  
voting

**81.**—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.

Idem

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.

Entry in  
minutes

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

Effect of  
signed  
resolutions

**82.**—(1) Except for a resolution in relation to which a written statement is submitted by a director under subsection 96 (2) or in relation to which representations in writing are submitted by an auditor under subsection 113 (6),

- (a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and
- (b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

Copy of  
resolution  
kept with  
minutes

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meeting of shareholders.

Requisition  
for  
shareholders  
meeting

**83.**—(1) On notice to the Superintendent, the holders of not less than 5 per cent of the issued shares of a provincial corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.

(4) Sauf disposition contraire du règlement intérieur, si plusieurs personnes détiennent des actions en commun, le codétenteur présent à une assemblée peut, en l'absence des autres, exercer le droit de vote rattaché aux actions. Si plusieurs codétenteurs sont présents ou représentés, ils votent comme un seul actionnaire en ce qui concerne les actions détenues en commun.

Codétenteurs

**81** (1) Sauf disposition contraire du règlement intérieur, le vote lors d'une assemblée des actionnaires se fait à main levée ou, à la demande de tout actionnaire ou fondé de pouvoir habile à voter, au scrutin.

Vote

(2) Les actionnaires ou les fondés de pouvoir peuvent demander un vote au scrutin avant ou après tout vote à main levée.

Idem

(3) Sauf si le vote au scrutin est demandé, l'inscription au procès-verbal de l'assemblée des actionnaires selon laquelle le président a déclaré une proposition adoptée est recevable comme preuve *prima facie* de son adoption sans qu'il soit nécessaire de prouver le nombre de voix favorables ou dissidentes.

Inscription au  
procès-verbal

**82** (1) Sauf s'il s'agit d'une résolution relativement à laquelle une déclaration écrite a été présentée par un administrateur aux termes du paragraphe 96 (2) ou des observations ont été présentées par écrit par le vérificateur aux termes du paragraphe 113 (6) :

La résolution  
tient lieu  
d'assemblée

- a) la résolution écrite signée de tous les actionnaires habiles à voter sur la résolution lors d'une assemblée des actionnaires a la même valeur que si elle avait été adoptée lors d'une telle assemblée;
- b) la résolution écrite portant sur toutes les questions qui doivent, selon la présente loi, être traitées lors d'une assemblée des actionnaires et signée par tous les actionnaires habiles à voter lors de cette assemblée, répond aux conditions de la présente loi relatives à cette assemblée.

(2) Un exemplaire des résolutions visées au paragraphe (1) est conservé avec les procès-verbaux des assemblées.

Exemplaire  
de la résolu-  
tion conser-  
vée avec les  
procès-  
verbaux

**83** (1) Après en avoir notifié le surintendant, les détenteurs d'au moins 5 pour cent des actions émises par la compagnie provinciale et ayant le droit de vote à l'assemblée dont la tenue est demandée peuvent exiger des administrateurs la convocation d'une assemblée aux fins énoncées dans la demande.

Demande de  
convocation



Idem

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the principal place of business of the corporation.

Duty of  
directors to  
call meeting

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless,

- (a) a record date has been fixed under subsection 73 (2) and notice thereof has been given under subsection 73 (4);
- (b) the directors have called a meeting of shareholders and have given notice thereof under section 74; or
- (c) the business of the meeting as stated in the requisition includes matters described in clauses 77 (5) (b), (c) and (d).

Where  
requisitioner  
may call  
meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call a meeting.

Calling of  
meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws and this Part.

Repayment  
of  
expenses

(6) The provincial corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally.

Requisition  
to Court

**84.—**(1) If for any reason it is impracticable to call a meeting of shareholders of a provincial corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws and this Act, or if for any other reason the High Court of Justice thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court considers appropriate.

Idem

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

(2) La demande visée au paragraphe (1) énonce les questions devant être traitées lors de l'assemblée et est envoyée à l'établissement principal de la compagnie. Idem

(3) Les administrateurs convoquent une assemblée dès réception de la demande visée au paragraphe (1), pour délibérer des questions qui y sont énoncées, à moins : Obligation des administrateurs de convoquer l'assemblée

- a) que l'avis d'une date de clôture des registres fixée aux termes du paragraphe 73 (2) n'ait déjà été donné aux termes du paragraphe 73 (4);
- b) qu'ils n'aient déjà convoqué une assemblée et donné l'avis prévu à l'article 74;
- c) que des questions à l'ordre du jour énoncées dans la demande ne portent sur les cas visés aux alinéas 77 (5) b), c) et d).

(4) Sous réserve du paragraphe (3), si les administrateurs ne convoquent pas l'assemblée dans les vingt et un jours suivant la réception de la demande visée au paragraphe (1), tout signataire de la demande peut le faire. L'auteur de la demande peut convoquer l'assemblée

(5) L'assemblée convoquée aux termes du présent article l'est d'une manière aussi conforme que possible au règlement intérieur et à la présente partie. Convocation de l'assemblée

(6) Sauf le cas où les actionnaires n'auraient pas agi de bonne foi et dans l'intérêt commun des actionnaires de la compagnie provinciale, celle-ci leur rembourse les frais normaux engagés pour demander, convoquer et tenir l'assemblée. Remboursement des frais

**84** (1) Si elle le juge à propos, notamment dans le cas où il serait impossible pour une raison quelconque de convoquer régulièrement l'assemblée ou de la tenir selon le règlement intérieur ou la présente loi, la Haute Cour peut, à la requête d'un administrateur ou d'un actionnaire habile à voter à l'assemblée, ordonner la convocation et la tenue de l'assemblée conformément à ses directives. Elle peut subordonner l'ordonnance aux conditions qu'elle juge appropriées, notamment celles relatives à la caution pour les frais engagés aux fins de la tenue de l'assemblée. Convocation par le tribunal

(2) Le tribunal peut notamment, à l'occasion d'une assemblée convoquée et tenue en application du présent article, ordonner la modification ou la dispense du quorum exigé par le règlement intérieur ou la présente loi. Idem



Effect of  
meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the provincial corporation duly called, held and conducted.

Notice to  
Superin-  
tendent

(4) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Application  
to  
court re:  
directors and  
auditors

**85.**—(1) A shareholder or director of a provincial corporation or the corporation may apply to the High Court of Justice to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Notice to  
Superin-  
tendent

(2) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Notice of  
orders

(3) Upon an application under this section, the court may make any order it considers appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares.



Proxies  
1982, c. 4

**86.** Part VIII of the *Business Corporations Act, 1982* and the regulations made under that Act in relation to that Part apply with necessary modifications to every provincial corporation as if it were a corporation incorporated under that Act.



(3) L'assemblée convoquée et tenue en application du présent article est, à toutes fins, régulière.

Validité de l'assemblée

(4) L'auteur de la requête présentée en vertu du paragraphe (1) en notifie le surintendant avant l'audience, et lui remet une copie de l'ordonnance rendue, le cas échéant.

Avis au surintendant

**85** (1) La compagnie provinciale, ainsi que tout actionnaire ou administrateur, peut demander à la Haute Cour par voie de requête de trancher tout différend relatif à l'élection ou à la nomination d'un administrateur ou d'un vérificateur.

Requête, administrateur et vérificateur

(2) L'auteur de la requête présentée en vertu du paragraphe (1) en notifie le surintendant avant l'audience, et lui remet une copie de l'ordonnance rendue, le cas échéant.

Avis au surintendant

(3) Sur requête présentée en vertu du présent article, le tribunal peut, par ordonnance, prendre toute mesure qu'il estime appropriée et notamment :

Idem

- a) interdire à l'administrateur ou au vérificateur dont l'élection ou la nomination est contestée d'agir jusqu'au règlement du différend;
- b) proclamer le résultat de l'élection ou de la nomination litigieuse;
- c) ordonner une nouvelle élection ou une nouvelle nomination, en donnant des directives sur la gestion des affaires de la compagnie en attendant l'élection ou la nomination;
- d) préciser les droits de vote des actionnaires et des personnes qui se prétendent propriétaires d'actions.



**86** La partie VIII de la *Loi de 1982 sur les compagnies* et les règlements pris en application de cette loi à l'égard de cette partie s'appliquent, avec les adaptations nécessaires, à la compagnie provinciale comme s'il s'agissait d'une compagnie constituée en vertu de cette loi.

Procurations 1982, chap. 4



## PART VI

## DIRECTORS AND OFFICERS

Directors'  
duties

**87.** The directors shall manage or supervise the management of the business and affairs of a provincial corporation.

Resolutions

**88.**—(1) The concurrence of a majority of the directors present at a meeting of the directors is necessary to pass any resolution.

By-law by  
resolution

(2) Unless the instrument of incorporation, this Act or the by-laws otherwise provide, the directors, by resolution, may make, amend or repeal any by-laws that regulate the business or affairs of a provincial corporation.

Confirmation  
by  
shareholders

(3) Where a by-law is made, amended or repealed under subsection (2), the directors shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders shall confirm, reject or amend the by-law, amendment or repeal.

Effective  
date

(4) Where a by-law is made, amended or repealed under subsection (2), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (3) or until it ceases to be effective under subsection (5) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

Rejection,  
etc.

(5) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (3), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

By-law re  
shareholder  
proposal

(6) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 77 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

## PARTIE VI

## ADMINISTRATEURS ET DIRIGEANTS

**87** Les administrateurs gèrent les affaires de la compagnie provinciale, ou supervisent leur gestion.

Fonctions des administrateurs

**88** (1) L'adoption d'une résolution nécessite l'accord d'une majorité des administrateurs présents lors d'une réunion des administrateurs.

Résolutions

(2) Sauf disposition contraire de l'acte constitutif, de la présente loi ou du règlement intérieur, les administrateurs peuvent, par résolution, établir, modifier ou abroger tout règlement intérieur portant sur les affaires de la compagnie provinciale.

Règlement intérieur

(3) Dans le cas d'adoption, de modification ou d'abrogation d'un règlement intérieur aux termes du paragraphe (2), les administrateurs soumettent cette mesure, lors de l'assemblée suivante, aux actionnaires, qui les confirment, les rejettent ou les modifient.

Confirmation par les actionnaires

(4) L'adoption, la modification ou l'abrogation d'un règlement intérieur aux termes du paragraphe (2) prennent effet à compter de la date de la résolution des administrateurs. Après la confirmation de la mesure ou sa modification par les actionnaires, celle-ci demeure en vigueur dans sa teneur initiale ou modifiée selon le cas. Toutefois, son adoption, sa modification ou son abrogation cessent d'avoir effet après leur rejet aux termes du paragraphe (3) ou au cas d'application du paragraphe (5).

Date d'entrée en vigueur

(5) L'adoption, la modification ou l'abrogation du règlement intérieur cessent d'avoir effet à la suite de leur rejet par les actionnaires ou de l'omission des administrateurs de soumettre ces mesures à leur approbation, conformément au paragraphe (3), à compter de la date du rejet ou de l'assemblée des actionnaires au cours de laquelle ces mesures auraient dû être soumises, selon le cas. Toute résolution ultérieure des administrateurs visant essentiellement le même but n'entre en vigueur qu'après sa confirmation par les actionnaires, avec ou sans modifications.

Rejet, etc.

(6) Le règlement intérieur, la modification ou l'abrogation de ce règlement adoptés lors de l'assemblée sur la proposition d'un actionnaire à cet effet présentée conformément à l'article 77 prennent effet à la date de leur adoption et ne nécessitent aucune autre confirmation.

Règlement intérieur issu de la proposition d'un actionnaire

By-law need  
not be so  
described

(7) A by-law need not be described as a by-law in a resolution referred to in this section.

Board of  
directors

**89.**—(1) A provincial corporation shall have at least five directors.

Outside  
directors

(2) At least one half of the directors of a provincial corporation shall be outside directors.

Idem

(3) For the purposes of this Part, an individual is not eligible to be an outside director if,

(a) the individual holds more than 5 per cent of the voting shares of the corporation or of any of its affiliates;

(b) the individual is an officer or employee of the corporation or any of its affiliates or has been an officer or employee of the corporation or any of its affiliates within two years of the date on which he or she would become or became a director;

(c) the individual is a spouse or child of an individual described in clause (a) or (b); or



(d) the individual is a relative of an individual described in clause (a) or (b) or a relative of the spouse of an individual described in clause (a) or (b) and has the same home as the individual described in clause (a) or (b) or as the spouse of an individual described in clause (a) or (b).



Citizenship

(4) The majority of directors of a provincial corporation shall be resident Canadian citizens.

Change in  
number of  
directors

(5) A provincial corporation may by special resolution increase or decrease the number of its directors but no decrease in the number of directors shall shorten the term of an incumbent director or reduce the number of directors to fewer than five.

Director  
disqualifi-  
cation

**90.** The following persons are disqualified from being a director of a provincial corporation:

1. A person who is not an individual.
2. An individual who is less than eighteen years of age.
3. An individual who is of unsound mind and who has been so found by a court in Canada or elsewhere.



(7) Il n'est pas nécessaire, dans une résolution aux termes du présent article, de désigner un règlement intérieur comme tel.

Désignation  
de règlement  
intérieur non  
nécessaire

**89** (1) La compagnie provinciale compte au moins cinq administrateurs.

Conseil d'ad-  
ministration

(2) Au moins la moitié des administrateurs de la compagnie provinciale sont des administrateurs externes.

Administra-  
teurs externes

(3) Pour l'application de la présente partie, un particulier ne possède pas les qualités requises pour devenir administrateur externe :

Idem

- a) s'il est détenteur de plus de 5 pour cent des actions assorties du droit de vote de la compagnie ou d'un membre du même groupe;
- b) s'il est un dirigeant ou un employé de la compagnie ou d'un membre du même groupe, ou l'a été au cours des deux ans qui ont précédé la date à laquelle il deviendrait administrateur;
- c) s'il est le conjoint ou l'enfant du particulier visé à l'alinéa a) ou b);
- d) s'il est un parent du particulier visé à l'alinéa a) ou b) ou un parent du conjoint de ce dernier et qu'il habite avec le particulier visé à l'alinéa a) ou b) ou avec le conjoint de ce dernier.

(4) Le conseil d'administration d'une compagnie se compose en majorité de citoyens résidents canadiens.

Citoyenneté

(5) Une compagnie provinciale peut, par résolution spéciale, augmenter ou diminuer le nombre de ses administrateurs. Toutefois, une diminution de nombre ne doit pas entraîner l'abrègement du mandat d'un administrateur en fonction ni la réduction du nombre d'administrateurs à moins de cinq.

Modification  
au nombre  
des adminis-  
trateurs

**90** Ne peuvent être administrateurs d'une compagnie provinciale :

Inhabilité

1. Les personnes autres que les particuliers.
2. Les particuliers de moins de dix-huit ans.
3. Les faibles d'esprit qui ont été reconnus comme tels par un tribunal, même étranger.



4. An individual who has the status of bankrupt.
5. An individual who is a director of a corporation not affiliated with the corporation of which the individual wishes to become a director.

Holding  
shares

**91.** Unless the instrument of incorporation or the by-laws otherwise provide, a director of a provincial corporation is not required to hold shares issued by the corporation.

Directors  
named in  
instrument of  
incorporation

**92.**—(1) Each director named in the instrument of incorporation of a provincial corporation shall hold office from the date of issue of the instrument until the first meeting of shareholders following the issue of the instrument.

Election

(2) The shareholders of a provincial corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting, directors to hold office for a term expiring not later than the close of the next annual meeting of shareholders following the election.

Term of a  
director

(3) A director ceases to hold office at the close of the first annual meeting of shareholders following the director's election.

Idem

(4) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders, the incumbent directors continue in office until their successors are elected.

Failure to  
elect

(5) If a meeting of shareholders fails to elect the number of directors required by the by-laws or by subsection 89 (1) by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the provincial corporation pending the holding of a meeting of shareholders in accordance with subsection 97 (2).

Notice to  
Superin-  
tendent

(6) Upon the election of a director, notice of such election shall be given to the Superintendent in the prescribed form.

Cumulative  
voting

**93.** Where the by-laws provide for cumulative voting,

- (a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;

4. Les personnes qui ont le statut de failli.
5. Le particulier qui est administrateur d'une compagnie qui n'est pas membre du même groupe que la compagnie auprès de laquelle celui-ci sollicite un mandat d'administrateur.

**91** Sauf disposition contraire de l'acte constitutif ou du règlement intérieur, la qualité d'actionnaire n'est pas requise de l'administrateur d'une compagnie provinciale.

Détention  
d'actions

**92** (1) Le mandat des administrateurs désignés à l'acte constitutif d'une compagnie provinciale commence à la date de délivrance de l'acte constitutif et se termine à la première assemblée des actionnaires qui suit cette délivrance.

Administrateurs désignés  
dans l'acte  
constitutif

(2) Les actionnaires d'une compagnie provinciale élisent à leur première assemblée et à chaque assemblée annuelle subséquente les administrateurs, dont le mandat expire au plus tard à la clôture de la prochaine assemblée annuelle des actionnaires qui suit l'élection.

Élection

(3) Le mandat d'un administrateur prend fin à la clôture de la première assemblée annuelle qui suit son élection.

Mandat de  
l'administra-  
teur

(4) Malgré le présent article, le mandat des administrateurs, à défaut d'élection de nouveaux administrateurs lors d'une assemblée des actionnaires, se poursuit jusqu'à l'élection de leurs remplaçants.

Idem

(5) Si en raison de l'incapacité, de l'incapacité ou du décès d'un ou de plusieurs candidats, les actionnaires ne peuvent élire lors d'une assemblée le nombre d'administrateurs requis par le règlement intérieur ou le paragraphe 89 (1), les administrateurs élus à cette assemblée peuvent, si le quorum est atteint, exercer tous les pouvoirs des administrateurs jusqu'à la tenue d'une assemblée des actionnaires conformément au paragraphe 97 (2).

Défaut d'élire

(6) Dès l'élection d'un administrateur, avis en est donné au surintendant, selon la formule prescrite.

Avis au  
surintendant

**93** Lorsque le règlement intérieur prévoit le vote cumulatif :

Vote  
cumulatif

- a) les actionnaires qui ont le droit d'élire les administrateurs disposent d'un nombre de voix égal à celui qui se rattache à leurs actions, multiplié par le nombre d'administrateurs à élire. Ils peuvent exprimer leurs voix en faveur d'un seul ou de plusieurs candidats;

- (b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (c) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed the votes equally among the candidates;
- (d) if the number of candidates nominated for director exceed the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) a director may not be removed from office if the votes cast against removal would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected; and
- (f) the number of directors required by the by-laws may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected.

When  
director  
ceases to  
hold  
office

**94.**—(1) A director of a provincial corporation ceases to hold office upon,

- (a) death or resignation;
- (b) removal under section 95; or
- (c) becoming disqualified under section 90.

Resignation

(2) A resignation of a director becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

Notice to  
Superin-  
tendent

(3) Upon receipt of the resignation of a director, the provincial corporation shall deliver notice to the Superintendent of the resignation together with a copy of any statement made under subsection 96 (2) or (3).

- b) chaque poste d'administrateur fait l'objet d'un vote distinct, sauf adoption à l'unanimité d'une résolution permettant à deux personnes ou plus d'être élues par la même résolution;
- c) l'actionnaire qui a voté pour plus d'un candidat, sans autres précisions, est réputé avoir réparti ses voix également entre les candidats;
- d) si le nombre des candidats est plus grand que celui des postes vacants, les candidats qui recueillent le plus petit nombre de voix sont éliminés jusqu'à ce que le nombre des candidats restants égale celui des postes vacants;
- e) un administrateur ne peut être révoqué lorsque les voix exprimées contre cette mesure suffiraient à assurer l'élection d'un administrateur si elles étaient cumulées lors d'une élection du nombre total des administrateurs prévu par le règlement intérieur, dans le cadre de laquelle le même nombre de voix était exprimé;
- f) le nombre d'administrateurs prévu par le règlement intérieur ne peut être réduit lorsque les voix exprimées contre la motion à cet effet suffiraient à assurer l'élection d'un administrateur, si elles étaient cumulées lors d'une élection du nombre total des administrateurs prévu par le règlement intérieur, dans le cadre de laquelle le même nombre de voix était exprimé.

**94** (1) Le mandat d'un administrateur d'une compagnie provinciale prend fin dès :

Fin du mandat d'un administrateur

- a) son décès ou sa démission;
- b) sa révocation aux termes de l'article 95;
- c) son inhabilité à l'exercer aux termes de l'article 90.

(2) La démission d'un administrateur prend effet à la date de réception par la compagnie provinciale d'un écrit à cet effet ou à la date postérieure qui y est indiquée.

Démission

(3) Dès réception de la démission d'un administrateur, la compagnie provinciale délivre au surintendant un avis à cet effet accompagné, le cas échéant, de la déclaration écrite visée aux paragraphes 96 (2) ou (3).

Avis au surintendant



Removal of  
directors

**95.**—(1) Subject to clause 93 (e), the shareholders of a provincial corporation may by resolution at an annual or special meeting remove any director from office.

Idem

(2) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by resolution at a meeting of the shareholders of that class or series.

Idem

(3) Subject to clauses 93 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 97.

Notice to  
director

**96.**—(1) A director of a provincial corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.

Reasons for  
resignation

(2) A director of a provincial corporation who,

- (a) resigns;
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him or her from office; or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because the director's term of office has expired or is about to expire,

may submit to the corporation a written statement giving the reasons for the resignation or the reasons, if any, why he or she opposes any proposed action or resolution, as the case may be.

Idem

(3) Where a director of a provincial corporation resigns because he or she disagrees with an action or omission of the board of directors or of the management of the corporation and,

- (a) the director knows or believes that as a result of the action or omission the corporation or any shareholder, director, officer or employee of the corporation is or will be in contravention of this Act, the *Securities Act* or the *Criminal Code* (Canada) or legislation of another jurisdiction that is comparable to this Act or the *Securities Act*; or

**95** (1) Sous réserve de l'alinéa 93 e), les actionnaires de la compagnie provinciale peuvent, lors d'une assemblée annuelle ou extraordinaire, révoquer un administrateur par voie de résolution.

Révocation  
des  
administra-  
teurs

(2) Si les détenteurs d'une catégorie ou d'une série d'actions ont le droit exclusif d'élire un ou plusieurs administrateurs, l'administrateur ainsi élu ne peut être révoqué que par voie de résolution, adoptée lors d'une assemblée des actionnaires intéressés.

Idem

(3) Sous réserve des alinéas 93 a) à d), toute vacance découlant d'une révocation peut être comblée lors de l'assemblée qui a prononcé la révocation ou, à défaut, aux termes de l'article 97.

Idem

**96** (1) Les administrateurs ont le droit de recevoir avis des assemblées d'actionnaires, d'y assister et d'y prendre la parole.

Avis à l'admini-  
strateur

(2) L'administrateur qui :

Motifs de  
démission

- a) démissionne;
- b) est informé, notamment au moyen d'un avis, de la convocation d'une assemblée en vue de le révoquer;
- c) est informé, notamment au moyen d'un avis, de la tenue d'une réunion du conseil d'administration ou d'une assemblée convoquées en vue de nommer ou d'élire son remplaçant, par suite de sa démission, de sa révocation ou de l'expiration effective ou imminente de son mandat,

peut, dans une déclaration écrite, exposer à la compagnie les motifs de sa démission ou, le cas échéant, de son opposition à la mesure ou à la résolution proposées.

(3) L'administrateur de la compagnie provinciale dont la démission est provoquée par une mesure ou une omission de la part du conseil d'administration ou de la direction présente à la compagnie une déclaration écrite exposant les motifs de sa démission :

Idem

- a) s'il sait ou croit que la mesure ou l'omission a entraîné ou entraînera de la part de la compagnie ou de son actionnaire, administrateur, dirigeant ou employé, une contravention à la présente loi, à la *Loi sur les valeurs mobilières*, aux lois semblables d'une autre compétence législative, ou au *Code criminel* (Canada);

L.R.O. 1980,  
chap. 466  
S.R.C. 1970,  
chap. C-34



- (b) the director knows or believes that as a result of the action or omission there has been or will be a change in the circumstances of the corporation that might materially and adversely affect the financial position of the corporation,

the director shall submit to the corporation a written statement giving the reasons for the resignation.

Distribution  
of statement

(4) Upon receiving a statement under subsection (2), the corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders unless the statement is included in or attached to a management information circular.

No liability

(5) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (4).

Idem


(6) A person who in good faith makes a statement under subsection (3) shall not be liable in any civil action arising out of the statement.

Notice to  
Superin-  
tendent

(7) A director who resigns as director of a provincial corporation shall forthwith give notice to the Superintendent of the resignation and a copy of any written statement given under this section.



Additional  
information

(8) Forthwith upon receipt of the written request of the Superintendent, a director who gives a notice under subsection (7) shall provide the Superintendent with such information related to the resignation as is set out in the request. 

Vacancies

**97.**—(1) Subject to subsections (3) and (4), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from,

- (a) an increase in the number of directors; or
- (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.

Election to  
make  
quorum

(2) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the by-laws or by subsection 89 (1), the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder.

- b) s'il sait ou croit que la mesure ou l'omission a entraîné ou entraînera une modification de la situation de la compagnie pouvant porter gravement atteinte à sa situation financière.

(4) Dès réception de la déclaration aux termes du paragraphe (2), la compagnie en envoie une copie à chaque actionnaire ayant le droit de recevoir avis des assemblées, sauf si la déclaration figure ou est annexée à une circulaire d'information de la direction.

Distribution de copies de la déclaration

(5) La compagnie et la personne agissant en son nom n'engagent pas leur responsabilité pour le seul motif qu'ils diffusent conformément au paragraphe (4) la déclaration faite par un administrateur.

Absence de responsabilité

(6) La personne qui, de bonne foi, fait la déclaration visée au paragraphe (3) n'engage pas sa responsabilité lors de toute poursuite civile qui s'ensuit.

Idem

(7) L'administrateur de la compagnie provinciale qui démissionne en donne sans délai avis au surintendant, accompagné d'une copie de toute déclaration écrite présentée aux termes du présent article.

Avis au surintendant

(8) Lorsqu'il reçoit une demande écrite du surintendant à cet effet, l'administrateur qui donne l'avis visé au paragraphe (7) fournit sans délai au surintendant les renseignements ayant trait à la démission que précise la demande.

Renseignements additionnels

**97** (1) Sous réserve des paragraphes (3) et (4), les administrateurs peuvent, s'il y a quorum, pourvoir aux vacances survenues au sein du conseil, sauf celles qui résultent :

Postes vacants

- a) d'une augmentation du nombre d'administrateurs;
- b) du défaut d'élire le nombre d'administrateurs à élire lors d'une assemblée d'actionnaires.

(2) En l'absence de quorum ou à défaut d'élire le nombre d'administrateurs requis par le règlement intérieur ou par le paragraphe 89 (1), les administrateurs en fonction convoquent dans les meilleurs délais une assemblée extraordinaire des actionnaires afin de pourvoir aux vacances survenues au sein du conseil. S'ils négligent de le faire ou s'il n'y a aucun administrateur en fonction, tout actionnaire peut convoquer cette assemblée.

Élection d'administrateurs pour former le quorum

Election by  
class of  
shareholders

(3) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (4), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or
- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

No quorum

(4) The by-laws may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series.

Term

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor.

Director's  
fitness

**98.**—(1) The election or appointment of a person to the board of directors of a provincial corporation does not take effect until the corporation has satisfied the Superintendent that the person is fit, both as to character and competence, to be a director of a corporation and the Superintendent has approved the election or appointment of the person as a director.

Information

(2) The Superintendent may require a corporation to provide such information, material and evidence as the Superintendent may consider necessary to decide the fitness of a person to be a director.

Deemed  
approval

(3) If the Superintendent does not notify a corporation, within thirty days of being asked to approve the appointment or election of a proposed director, that he or she is satisfied that the proposed director is fit to be a director or give notice of the time and place of a hearing on the matter, he or she shall be deemed to be satisfied as to the person's fitness to be a director.

Non-  
application

(4) Subsections (1) to (3) do not apply,

- (a) to a person who on the day this section comes into force is a director of a corporation so long as he or she remains a director of the corporation; or

(3) Si les détenteurs d'une catégorie ou d'une série d'actions ont le droit exclusif d'élire un ou plusieurs administrateurs, les vacances survenues parmi ces administrateurs peuvent être comblées :

Élection par catégories d'actions

- a) sous réserve du paragraphe (4) et à l'exception des vacances résultant du défaut d'élire le nombre requis d'administrateurs ou d'une augmentation de ce nombre, par les administrateurs en fonction élus par cette catégorie ou cette série;
- b) en l'absence d'administrateurs en fonction, lors de l'assemblée que les détenteurs d'actions de cette catégorie ou série peuvent convoquer pour pourvoir aux vacances.

(4) Le règlement intérieur peut prévoir que les vacances au sein du conseil d'administration seront comblées uniquement à la suite d'un vote, soit des actionnaires, soit des détenteurs de la catégorie ou série ayant le droit exclusif d'élire les administrateurs dont il s'agit.

Absence de quorum

(5) L'administrateur nommé ou élu pour combler une vacance remplit la partie non expirée du mandat de son prédécesseur.

Durée

**98** (1) L'élection ou la nomination d'une personne au conseil d'administration de la compagnie provinciale ne prend effet que lorsque le surintendant est convaincu par des preuves qui lui sont présentées par la compagnie que le candidat est apte, du point de vue de la moralité et de la compétence, à exercer les fonctions d'administrateur et que le surintendant y a donné son approbation.

Aptitudes de l'administrateur

(2) Le surintendant peut exiger que la compagnie lui fournisse les renseignements, les documents ainsi que la preuve qu'il estime nécessaires pour évaluer l'aptitude du candidat à exercer ces fonctions.

Renseignements

(3) Le surintendant est réputé convaincu de l'aptitude d'un candidat à exercer les fonctions d'administrateur si, dans les trente jours de la demande d'approbation de la nomination ou de l'élection du candidat, il n'a pas avisé la compagnie de son assentiment ou n'a pas fixé la date et l'endroit pour la tenue d'une audience pour connaître de la question.

Approbation réputée

(4) Les paragraphes (1) à (3) ne s'appliquent pas à la personne :

Non-application des par. (1) à (3)

- a) qui est administrateur de la compagnie au moment de l'entrée en vigueur du présent article, tant qu'elle demeure en fonction;



- (b) to a person who has been approved under this section so long as he or she remains a director of the corporation.

Place of meetings

**99.**—(1) Where the by-laws of a provincial corporation so provide, a meeting of its board of directors may be held at any place within Canada and otherwise shall be held at its principal place of business.

Minimum number of meetings

(2) The board of directors shall meet at least five times in each year.

Quorum

(3) Subject to the by-laws and subsection (4), a majority of the number of directors required by the by-laws constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors, of which one must be an outside director.

Idem

(4) Subject to the instrument of incorporation or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Calling meeting of directors

(5) In addition to any other provision in the by-laws of a provincial corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(6) Subject to the by-laws of the provincial corporation, notice of the time and place for the holding of the meeting called under subsection (5) shall be given to each director of the corporation by sending the notice ten days or more before the date of the meeting to the last address of the director as shown on the records of the corporation.

Waiver of notice

(7) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

Adjourned meeting

(8) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

Meeting by telephone, etc.

(9) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting

- b) dont la nomination ou l'élection a fait l'objet d'une approbation aux termes du présent article, tant qu'elle demeure en fonction.

**99** (1) Lorsque le règlement intérieur le prévoit, les réunions du conseil d'administration de la compagnie provinciale peuvent se tenir n'importe où au Canada. Dans les autres cas, elles se tiennent à l'endroit de son établissement principal.

Lieu des réunions

(2) Les administrateurs tiennent au moins cinq réunions par année.

Nombre minimal de réunions

(3) Sous réserve du règlement intérieur et du paragraphe (4), la majorité du nombre d'administrateurs exigé par les règlements constitue le quorum à toute réunion des administrateurs. Toutefois, le quorum ne doit en aucun cas être inférieur aux deux cinquièmes de ce nombre et doit inclure un administrateur externe.

Quorum

(4) Sous réserve de l'acte constitutif ou du règlement intérieur, en cas de vacance au sein du conseil d'administration les administrateurs en fonction peuvent exercer tous les pouvoirs du conseil tant qu'il y a quorum.

Idem

(5) En outre de toute disposition du règlement intérieur relative à la convocation des réunions des administrateurs, un groupe de ceux-ci formant quorum peut convoquer une réunion des administrateurs aux fins de délibérer sur toute question dont l'objet est indiqué en termes généraux dans l'avis de convocation.

Convocation de la réunion des administrateurs

(6) Sous réserve du règlement intérieur, avis des date, heure et lieu de la réunion convoquée aux termes du paragraphe (5) est envoyé, au moins dix jours avant la date de la réunion, à chaque administrateur à la dernière adresse connue de ce dernier qui figure aux dossiers de la compagnie.

Avis

(7) Les administrateurs peuvent, de quelque façon que ce soit et à n'importe quel moment, renoncer à l'avis de convocation. Leur présence à la réunion équivaut à une telle renonciation, sauf lorsqu'ils y assistent spécialement pour s'opposer aux délibérations pour le motif que la réunion n'est pas régulièrement convoquée.

Renonciation à l'avis

(8) Il n'est pas nécessaire de donner avis de l'ajournement d'une réunion si les date, heure et lieu de la reprise sont annoncés lors de la réunion initiale.

Ajournement de la réunion

(9) Sauf disposition contraire du règlement intérieur et si tous les administrateurs présents ou qui participent à la réu-

Réunion par téléphone, etc.



consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting.

Place of  
meeting by  
telephone

(10) If a majority of the directors participating in a meeting held under subsection (9) is then in Canada, the meeting shall be deemed to have been held in Canada.

Executive  
committee

**100.**—(1) The shareholders of a provincial corporation, by special resolution and subject to subsection (2), may authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be appointed by the directors from their number and at least one member of the executive committee shall be an outside director.

Limitations  
on authority

(2) No executive committee has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or the members of the audit committee, the investment committee or the approvals committee or in the office of auditor or appoint or remove the chief operating officer, however designated, the chief executive officer, however designated, the chief financial officer, however designated, the chairman of the board or the president of the corporation;
- (c) issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 53;
- (g) approve a management information circular;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular or any amendment to any such circular referred to in Part XIX of the *Securities Act*;

nion du conseil ou de son comité y consentent, ceux-ci peuvent y prendre part en utilisant des moyens techniques de communication, notamment le téléphone ou des moyens électroniques, permettant à tous les participants de communiquer entre eux de façon simultanée et instantanée. L'administrateur qui participe de cette façon à la réunion est réputé, pour l'application de la présente loi, y avoir assisté.

(10) Est réputée avoir lieu au Canada la réunion tenue aux termes du paragraphe (9) si la majorité des administrateurs participants se trouvent alors au Canada.

Lieu de la  
réunion par  
téléphone

**100** (1) Les actionnaires d'une compagnie provinciale peuvent, par résolution spéciale et sous réserve du paragraphe (2), autoriser les administrateurs à former un comité directeur composé d'au moins trois d'entre eux, dont l'un au moins soit un administrateur externe, et à déléguer un ou plusieurs de leurs pouvoirs à ce comité.

Comité  
directeur

(2) Le comité directeur ne peut :

Limitation  
des pouvoirs

- a) soumettre aux actionnaires des questions qui nécessitent leur approbation;
- b) pourvoir au poste d'un administrateur, d'un membre du comité de vérification, du comité de placements ou du comité d'approbation, ou du vérificateur, nommer ou destituer le responsable de l'exploitation, le responsable de la direction ou le responsable des finances, quelle que soit leur désignation, de même que le président du conseil d'administration ou le président de la compagnie;
- c) émettre des valeurs mobilières, sauf selon les modalités et aux conditions autorisées par les administrateurs;
- d) déclarer des dividendes;
- e) acquérir, notamment par achat ou rachat, des actions émises par la compagnie;
- f) verser la commission visée à l'article 53;
- g) approuver une circulaire d'information de la direction;
- h) approuver une circulaire d'offre d'achat visant à la mainmise, une circulaire de la direction ou une circulaire d'offre d'achat de l'émetteur visées à la partie XIX de la *Loi sur les valeurs mobilières* ou une modification de celles-ci;

L.R.O. 1980,  
chap. 466

- (i) approve any financial statements under subsection 120 (1);
- (j) adopt, amend or repeal by-laws;
- (k) approve any item requiring approval of the board of directors under Part IX; or
- (l) approve the written procedures described in section 154.

Further  
limitation

(3) No business shall be transacted by an executive committee unless at least one outside director is present at the meeting.

Chairman

**101.**—(1) The directors of a provincial corporation shall elect from among themselves a chairman of the board.

Delegation of  
powers to  
officers

(2) The directors,

- (a) may designate the offices of the corporation and may appoint officers to those offices and specify their duties; and
- (b) may delegate to the officers of the corporation the power to manage the business and affairs of the corporation.

Idem

(3) The directors shall not delegate to the officers of the corporation any power that, under subsection 100 (2), cannot be exercised by an executive committee.

Qualifications

(4) Where the regulations prescribe qualifications for appointment as an officer, the directors shall not appoint a person who does not have those qualifications.

Delegation of  
fiduciary  
powers

**102.**—(1) Notwithstanding any law related to fiduciaries, the shareholders of a provincial trust corporation, by special resolution, may authorize the directors to delegate to the chief executive officer any powers of the corporation under a deed, will or other document creating a trust and such a delegation may authorize the chief executive officer to further delegate any such powers to any other officer or officers of the corporation.

Effect of  
exercise of  
power

(2) The exercise of a power by a person to whom it is delegated under subsection (1) constitutes an exercise of the power by the corporation.

- i) approuver les états financiers visés au paragraphe 120 (1);
- j) adopter, modifier ou révoquer un règlement intérieur;
- k) approuver une mesure qui nécessite l'approbation du conseil d'administration aux termes de la partie IX;
- l) approuver la procédure écrite visée à l'article 154.

(3) Le comité directeur ne doit pas délibérer sans qu'au moins un administrateur externe soit présent. Autre restriction

**101** (1) Les administrateurs de la compagnie provinciale choisissent parmi eux le président du conseil d'administration. Président du conseil d'administration

(2) Les administrateurs peuvent :

- a) déterminer les divers postes de direction de la compagnie, y nommer des dirigeants et préciser leurs fonctions;
- b) déléguer aux dirigeants de la compagnie le pouvoir de gérer ses affaires.

Délégation de pouvoirs aux dirigeants

(3) Les administrateurs ne doivent pas déléguer aux dirigeants de la compagnie un pouvoir qui, aux termes du paragraphe 100 (2), ne peut pas être exercé par un comité directeur. Idem

(4) Les administrateurs ne doivent pas nommer au poste de dirigeant la personne qui n'a pas les qualités prescrites par les règlements, le cas échéant. Qualités prescrites

**102** (1) Malgré toute loi ayant trait aux fiduciaires, les actionnaires d'une compagnie de fiducie provinciale peuvent, au moyen d'une résolution spéciale, autoriser les administrateurs à déléguer au responsable de la direction des pouvoirs que la compagnie possède en vertu d'un acte, d'un testament ou d'un autre document établissant une fiducie. La délégation peut en outre conférer au responsable de la direction le pouvoir de déléguer à son tour à un ou plusieurs dirigeants de la compagnie un ou plusieurs de ces pouvoirs. Délégation de pouvoirs fiduciaires

(2) L'exercice d'un pouvoir par la personne à laquelle il a été délégué en vertu du paragraphe (1) est assimilé à son exercice par la compagnie. Effet de l'exercice du pouvoir

Written  
procedures

(3) Before any powers are delegated pursuant to a special resolution described in subsection (1), the corporation shall establish written procedures related to the exercise of the powers by a delegate.

Development  
of procedures

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least once each year by the investment committee.


Idem

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

Approval by  
board

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary.

Extra-  
provincial  
corporation

(7) This section also applies to an extra-provincial trust corporation with respect to the delegation of powers under any deed, will or other document creating a trust governed by the law of Ontario if the corporation is not prevented by the law of the jurisdiction in which it is incorporated from making such a delegation. 

Audit and  
investment  
committees

**103.**—(1) The directors of a provincial corporation shall appoint from their number an audit committee and an investment committee which committees shall fulfil such duties as are required by this Act and as are prescribed by the regulations.

Idem

(2) Each committee appointed under subsection (1) shall consist of at least three members and a majority of the members shall be outside directors.

Acts not  
invalid

**104.** An act done by the board of directors or by an officer is not invalid by reason only of any defect that is thereafter discovered in the appointment, election or qualification of any of the directors or of the officer.

Resolutions

**105.**—(1) A resolution, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors.



(3) Avant que des pouvoirs ne soient délégués aux termes d'une résolution spéciale visée au paragraphe (1), la compagnie établit une procédure écrite ayant trait à l'exercice des pouvoirs par un délégué.

Procédure écrite

(4) Le comité de placements du conseil d'administration de la compagnie établit la procédure visée au paragraphe (3) et la réexamine au moins une fois l'an.

Élaboration de la procédure

(5) Le comité de placements présente au conseil d'administration un rapport concernant le réexamen visé au paragraphe (4) et lui fait ses recommandations, le cas échéant, relativement à la procédure visée au paragraphe (3).

Idem

(6) La procédure visée au paragraphe (3) est subordonnée à l'approbation du conseil d'administration. Ce dernier, sur une recommandation du comité des placements, réexamine la procédure et y apporte les modifications qui s'imposent.

Approbation du conseil d'administration

(7) En ce qui concerne la délégation de pouvoirs en vertu d'un acte, d'un testament ou d'un autre document établissant une fiducie régie par la loi de l'Ontario, le présent article s'applique également aux compagnies extraprovinciales, à l'exception toutefois des compagnies auxquelles une telle délégation est interdite par les lois de leur territoire de constitution. 🏠

Compagnie extra-provinciale

**103** (1) Les administrateurs de la compagnie provinciale choisissent parmi eux les membres d'un comité de vérification et d'un comité de placements aux fins d'exercer les fonctions prévues pour ces comités par la présente loi et prescrites par les règlements.

Comités de placements et de vérification

(2) Les comités visés au paragraphe (1) se composent d'au moins trois membres dont la majorité sont des administrateurs externes.

Idem

**104** Les actes accomplis par les membres du conseil d'administration ou les dirigeants ne sont pas invalides pour le seul motif de l'irrégularité de leur élection ou de leur nomination ou de leur défaut des qualités requises, constatée ultérieurement.

Validité des actes

**105** (1) La résolution signée de tous les administrateurs habiles à voter, en ce qui concerne cette résolution, lors d'une réunion du conseil ou de son comité a la même valeur que si elle avait été adoptée au cours d'une telle réunion.

Résolutions



Idem (2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors.

Liability **106.**—(1) Directors of a provincial corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution.

Idem (2) Directors of a provincial corporation who vote for or consent to a resolution authorizing,

- (a) any investment or transaction contrary to Part IX;
- (b) a purchase, redemption or other acquisition of shares contrary to section 47 or 48;
- (c) a reduction in the stated capital of the corporation contrary to section 50;
- (d) a commission contrary to section 53;
- (e) a payment of a dividend contrary to section 54;
- (f) a payment of an indemnity contrary to section 110;
- (g) a payment to a shareholder contrary to an order under section 211; or
- (h) any other payment to a shareholder, director or officer the effect of which is to reduce the capital base of the corporation to an amount that is less than that required under this Act,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by it.

Joint  
liability

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded.

(2) Un exemplaire de chaque résolution visée au paragraphe (1) est conservé avec les procès-verbaux des réunions du conseil ou du comité. Idem

**106** (1) Les administrateurs de la compagnie provinciale qui, par vote ou acquiescement, adoptent une résolution autorisant l'émission d'actions en contrepartie d'un apport autre qu'en monnaie sont solidairement tenus de donner à la compagnie la différence entre la juste valeur de cet apport et l'équivalent en monnaie qu'elle aurait reçu si l'action avait été émise à la date de la résolution en contrepartie d'un apport en monnaie. Responsabilité

(2) Les administrateurs qui ont, par vote ou acquiescement, approuvé l'adoption d'une résolution autorisant : Idem

- a) un placement ou une opération contrairement à la partie IX;
- b) l'acquisition, notamment par achat ou rachat, d'actions contrairement aux articles 47 ou 48;
- c) une réduction du capital déclaré contrairement à l'article 50;
- d) le versement d'une commission contrairement à l'article 53;
- e) le versement d'un dividende contrairement à l'article 54;
- f) le versement d'une indemnité contrairement à l'article 110;
- g) le versement de sommes d'argent à des actionnaires contrairement à une ordonnance aux termes de l'article 211;
- h) tout autre paiement à un actionnaire, à un administrateur ou à un dirigeant dont l'effet est de réduire l'apport en capital de la compagnie à un montant inférieur à celui exigé par la présente loi,

sont solidairement tenus de restituer à la compagnie les sommes ainsi versées et que celle-ci n'a pas recouvrées autrement.

(3) L'administrateur qui a satisfait au jugement rendu en vertu du présent article peut répéter les sommes ainsi restituées contre chacun des administrateurs pour sa part lorsque ceux-ci ont, par vote ou acquiescement, approuvé l'adoption de la mesure illicite en cause. Responsabilité partagée

Application  
to Court

(4) A director found liable under this section is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX, section 47, 48, 50, 53, 54 or 110 or an order made under section 211.

Idem

(5) Where an application is made under subsection (4), the court may, if it is satisfied that it is equitable to do so,


- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX or section 47, 48, 50, 53, 54 or 110 or an order made under section 211;
- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.



Limitation  
period

(6) No action under subsection (1) or (2) shall be commenced in any court more than two years after the facts upon which the action is based first came to the attention of the plaintiff.

Defence

(7) A director is not liable under this section or under section 108 in respect of anything done in reliance on a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to the report, if the director acts in good faith, with reasonable grounds and after reasonable investigation. 

Liability  
for wages

**107.**—(1) The directors of a provincial corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the provincial corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder or under any collective agreement made by the provincial corporation.

R.S.O. 1980,  
c. 137

Limitation

(2) A director is liable under subsection (1) only if,

(4) L'administrateur tenu responsable aux termes du présent article peut demander à la Haute Cour, par voie de requête, une ordonnance obligeant les bénéficiaires, notamment les actionnaires, à lui remettre les fonds ou biens versés ou donnés contrairement à la partie IX, les articles 47, 48, 50, 53, 54 ou 110 ou à l'ordonnance rendue aux termes de l'article 211.

Requête

(5) Lors de la requête visée au paragraphe (4), le tribunal peut, s'il estime équitable de le faire :

Ordonnance  
du tribunal

- a) ordonner aux bénéficiaires de remettre à l'administrateur les fonds ou les biens versés ou donnés contrairement à la partie IX, aux articles 47, 48, 50, 53, 54 ou 110 ou à l'ordonnance rendue aux termes de l'article 211;
- b) ordonner à la compagnie soit de rétrocéder les actions à la personne de qui elle les a acquises, notamment par achat ou rachat, soit d'en émettre en sa faveur;
- c) rendre les ordonnances additionnelles qu'il estime pertinentes.



(6) Est irrecevable l'action intentée en vertu des paragraphes (1) ou (2) plus de deux ans après que les faits sur lesquels se fonde l'action sont venus à la connaissance du demandeur.

Prescription

(7) Un administrateur n'est pas tenu responsable aux termes du présent article ni aux termes de l'article 108 à l'égard de ce qu'il fait en se fondant sur le rapport d'un avocat, d'un comptable, d'un ingénieur, d'un évaluateur ou d'une autre personne dont la profession ajoute à la crédibilité du rapport, si l'administrateur agit de bonne foi, pour des motifs raisonnables et à la suite d'une enquête raisonnable.

Moyen de  
défense

**107** (1) Les administrateurs sont solidairement responsables envers les employés, jusqu'à concurrence de six mois de salaire, pour des dettes qui résultent de l'exécution par ceux-ci de services pour le compte de la compagnie provinciale et qui deviennent exigibles durant leur mandat. Il en est de même pour les indemnités de vacance accumulées durant leur mandat, pour une période maximale de douze mois, aux termes de la *Loi sur les normes d'emploi* et de ses règlements ou d'une convention collective à laquelle la compagnie provinciale est partie.

Responsabilité  
pour salairesL.R.O. 1980,  
chap. 137

(2) Un administrateur n'est responsable aux termes du paragraphe (1) que si :

Limitation

- (a) the director is sued while a director or within six months after ceasing to be a director; and
- (b) the action against the director is commenced within six months after the debt became payable, and

- (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or



- (ii) before or after the action is commenced the corporation is deemed insolvent and is ordered to be wound up under the *Winding-Up Act* (Canada).

R.S.C. 1970.  
c. W-10

Idem

(3) Where execution referred to in clause (2) (b) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Rights of  
director who  
pays debt  
R.S.C. 1970.  
c. W-10

(4) Where a director pays a debt under subsection (1), the director is entitled to any preference that the employee would have been entitled to under the *Winding-Up Act* (Canada), and, where a judgment has been obtained, the director is entitled to an assignment of the judgment.

Contribution

(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

Deemed  
director

**108.**—(1) For the purpose of this section, a director or officer includes a person acting in a capacity similar to, or performing functions of, a director or officer.

Standard of  
care

(2) Every director and officer of a provincial corporation in exercising his or her powers and in discharging his or her duties,

- (a) shall act honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) shall exercise the care, diligence and skill of a reasonably prudent director or officer, as the case may be, under comparable circumstances.

Idem

(3) In considering whether a particular transaction or course of action is in the best interests of the provincial corporation as a whole, a director or officer shall have due regard



- a) d'une part, une action en recouvrement est intentée contre lui au cours de son mandat ou dans les six mois qui en suivent la cessation;
- b) d'autre part, l'action contre lui est intentée dans les six mois après que la dette est devenue exigible et :
  - (i) soit que cette action en recouvrement est intentée à la fois contre l'administrateur et la compagnie, et que la saisie-exécution pratiquée contre la compagnie ne peut satisfaire au montant accordé par le jugement,
  - (ii) soit que la compagnie est réputée insolvable et fait l'objet d'une ordonnance de mise en liquidation en vertu de la *Loi sur les liquidations* (Canada), avant ou après l'introduction de l'action.

S.R.C. 1970.  
chap. W-10

(3) Lorsque la saisie-exécution visée à l'alinéa (2) b) a été pratiquée, les administrateurs ne sont tenus responsables que des sommes restant à recouvrer.

Idem

(4) L'administrateur qui acquitte les dettes visées au paragraphe (1) est subrogé aux droits de priorité de l'employé en vertu de la *Loi sur les liquidations* (Canada) et, si un jugement a été rendu, a le droit d'en exiger la cession.

Droit de l'administrateur qui a acquitté les dettes  
S.R.C. 1970,  
chap. W-10

(5) L'administrateur qui acquitte une dette aux termes du présent article peut répéter la somme versée, chacun pour sa part, contre les administrateurs qui étaient également responsables.

Répartition

**108** (1) Pour l'application du présent article, les termes «administrateur» et «dirigeant» s'entendent en outre des personnes qui exercent des fonctions d'un administrateur ou d'un dirigeant, ou qui agissent à titre semblable.

Administrateur réputé

(2) Les administrateurs et les dirigeants de la compagnie provinciale agissent, dans l'exercice de leurs attributions :

Norme applicable

- a) avec intégrité et de bonne foi, en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie;
- b) avec le soin, la diligence et la compétence dont ferait preuve dans des circonstances semblables l'administrateur ou le dirigeant, selon le cas, raisonnablement prudent.

(3) Pour déterminer si une opération ou une mesure donnée est susceptible de servir l'intérêt véritable de l'ensemble de la

Idem



to the interests of the depositors, as well as the shareholders of the corporation and, in the case of a trust corporation, shall also have due regard to the interests of the persons for whom it acts in a fiduciary capacity.

Duty to  
comply with  
Act

(4) Every director and officer of a provincial corporation shall comply with this Act and the regulations and the corporation's instrument of incorporation and by-laws.

Cannot  
contract out  
of liability

(5) No provision in a contract, the instrument of incorporation or the by-laws or a resolution relieves a director or officer of a provincial corporation from the duty to act in accordance with this Act and the regulations or relieves the director or officer from liability for a breach thereof.

Consent of  
director at  
meeting

**109.**—(1) A director who is present at a meeting of directors or committee of directors shall be deemed to have consented to any resolution passed or action taken thereat unless,

- (a) the director's dissent is entered in the minutes of the meeting;
- (b) the director requests that a dissent be entered in the minutes of the meeting;
- (c) the director sends a written dissent to the secretary of the meeting before the meeting is terminated; or
- (d) the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented thereto unless within seven days after becoming aware of the resolution or action the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting.

Indemnifica-  
tion

**110.**—(1) A provincial corporation may indemnify a person who is a director or officer of the corporation or a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor or for which the corporation acted in a fiduciary capacity, and the person's heirs and personal representatives, against all costs, charges and expenses, including an

compagnie provinciale, l'administrateur ou le dirigeant tient compte de l'intérêt des déposants comme de celui des actionnaires, ainsi que des personnes pour le compte desquelles la compagnie agit en qualité de fiduciaire, dans le cas d'une compagnie de fiducie.

(4) Les administrateurs et les dirigeants de la compagnie provinciale observent la présente loi et les règlements et se conforment à l'acte constitutif de la compagnie ainsi qu'au règlement intérieur.

Obligation  
d'observer la  
présente loi

(5) Nulle disposition d'un contrat, de l'acte constitutif, du règlement intérieur ou d'une résolution ne peut libérer les administrateurs ou les dirigeants de l'obligation d'agir conformément à la présente loi et aux règlements ni des responsabilités qui en découlent.

Exonération  
interdite

**109** (1) L'administrateur présent à une réunion du conseil ou d'un comité de celui-ci est réputé avoir acquiescé aux résolutions adoptées et aux mesures prises, sauf si sa dissidence, selon le cas :

Acquiesce-  
ment lors  
des réunions

- a) est consignée au procès-verbal;
- b) fait l'objet de sa demande à cet effet;
- c) fait l'objet d'un avis écrit qu'il envoie au secrétaire de la réunion avant la fin de celle-ci;
- d) est remise ou envoyée par courrier recommandé à l'établissement principal de la compagnie, immédiatement après la fin de la réunion.

(2) L'administrateur qui, par vote ou acquiescement, approuve l'adoption d'une résolution n'est pas fondé à faire valoir sa dissidence aux termes du paragraphe (1).

Idem

(3) L'administrateur absent d'une réunion au cours de laquelle une résolution a été adoptée ou une mesure prise est réputé y avoir acquiescé, sauf si, dans les sept jours suivant la date où il prend connaissance de cette résolution ou mesure, il envoie sa dissidence par courrier recommandé ou la remet à l'établissement principal de la compagnie et demande qu'elle soit consignée au procès-verbal de la prochaine réunion.

Idem

**110** (1) La compagnie provinciale peut indemniser les personnes qui sont ou ont été ses administrateurs ou dirigeants ou les personnes qui, à sa demande, agissent ou ont agi en cette qualité auprès d'une personne morale dont la compagnie

Indemnisation  
des adminis-  
trateurs

amount paid to settle an action or satisfy a judgment, reasonably incurred by or on behalf of the person in respect of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of such corporation or body corporate if,

- (a) the person acted honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the conduct was lawful.

Idem

(2) A corporation may, with the approval of the High Court of Justice, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which the person is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and expenses reasonably incurred by or on behalf of the person in connection with such action if the person fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the person in connection with the defence of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

- (a) was substantially successful on the merits in the defence of the action or proceeding; and
- (b) fulfils the conditions set out in clauses (1) (a) and (b).

Liability  
insurance

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by the person in the person's capacity as a director or officer of the corporation, except where the liability relates to a failure to act honestly and in good faith with a view to the best interests of the corporation as a whole.

est actionnaire, créancière ou représentant fiduciaire, ainsi que leurs héritiers et ayants droit, de tous les frais et débours normaux, y compris les sommes versées pour la transaction d'une instance ou pour l'exécution d'un jugement, engagées par les personnes ou en leur nom lors d'une instance civile, pénale ou administrative à laquelle ils étaient parties en raison de leurs fonctions, à condition que ceux-ci :

- a) d'une part, aient agi avec intégrité et de bonne foi en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie;
- b) d'autre part, dans le cas d'instances pénales ou administratives donnant lieu au versement d'une amende, aient eu de bonnes raisons de croire que leur conduite était conforme à la loi.

(2) La compagnie peut, avec l'approbation de la Haute Cour, indemniser les personnes visées au paragraphe (1) des frais et débours normaux engagés par les personnes ou en leur nom relativement à une instance intentée par la compagnie ou la personne morale ou pour le compte de celles-ci, en vue d'obtenir un jugement en leur faveur, et à laquelle elles étaient parties en raison de leurs fonctions, si les personnes remplissent les conditions énoncées aux alinéas (1) a) et b). Idem

(3) Malgré le présent article, les personnes visées au paragraphe (1) ont le droit d'être indemnisées par la compagnie des frais et débours normaux engagés relativement à la défense d'une instance civile, pénale ou administrative à laquelle elles étaient parties en raison de leurs fonctions, si : Idem

- a) elles ont obtenu gain de cause sur la plupart de leurs moyens de défense, sur le fond;
- b) elles remplissent les conditions énoncées aux alinéas (1) a) et b).

(4) La compagnie peut souscrire au profit d'une personne visée au paragraphe (1) une assurance couvrant la responsabilité qu'elle encourt pour avoir agi en qualité d'administrateur ou de dirigeant de la compagnie, à l'exception de la responsabilité découlant du défaut d'agir avec intégrité et de bonne foi en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie. Assurance-  
responsabilité

Application  
to Court

(5) A corporation or a person referred to in subsection (1) may on notice to the Superintendent apply to the High Court of Justice for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Idem

(6) Upon an application under subsection (5), the court may order that notice be given to any interested person and such person is entitled to appear and be heard in person or by counsel.

Remuneration  
of directors

**111.** The shareholders of a provincial corporation shall fix the remuneration of the directors.

Attendance  
records

**112.**—(1) Each provincial corporation shall keep a record of the total number of meetings of the directors and of the audit and investment committees and the number of such meetings attended by each director.

Idem

(2) A summary of the record kept under subsection (1) shall be sent to each shareholder and to the Superintendent with the notice of the annual meeting and shall be available on request to any depositor of the corporation.

## PART VII

### AUDITORS AND FINANCIAL STATEMENTS

Auditors

**113.**—(1) The shareholders of a provincial corporation at their first annual or special meeting shall appoint an auditor to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment.

Idem

(2) The shareholders of every provincial corporation shall at each annual meeting appoint an auditor to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual  
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of  
auditor

(4) Except where the auditor has been appointed under subsection (8), the shareholders of a provincial corporation, by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, may remove an auditor before the expiration of the auditor's term of office, and



(5) La compagnie ou l'une des personnes visées au paragraphe (1) peuvent, sur avis au surintendant, présenter devant la Haute Cour une requête en approbation d'une indemnité aux termes du présent article. Le tribunal peut rendre une ordonnance à cet effet ainsi que toute ordonnance additionnelle qu'il juge opportune.

Requête

(6) Le tribunal peut ordonner que l'avis d'une requête présentée aux termes du paragraphe (5) soit donné à tout intéressé, qui peut comparaître et se faire entendre en personne ou par l'intermédiaire d'un avocat.

Idem

**111** Les actionnaires de la compagnie provinciale fixent la rémunération des administrateurs.

Rémunération des administrateurs

**112** (1) La compagnie provinciale tient un dossier où sont consignées toutes les réunions du conseil d'administration ainsi que des comités de vérification et de placements et qui précise le nombre de ces réunions auxquelles chacun des administrateurs a assisté.

Dossier des présences

(2) Un résumé du dossier tenu aux termes du paragraphe (1) est annexé à l'avis de convocation de l'assemblée annuelle et envoyé à chacun des actionnaires ainsi qu'au surintendant. Le résumé peut être consulté par les déposants de la compagnie à leur demande.

Idem

## PARTIE VII

### VÉRIFICATEURS ET ÉTATS FINANCIERS

**113** (1) Les actionnaires de la compagnie provinciale nomment, à la première assemblée annuelle ou extraordinaire, un vérificateur dont le mandat expire à la clôture de la première assemblée annuelle ou de l'assemblée annuelle suivante, selon le cas. À défaut d'être nommé par les actionnaires, le vérificateur est nommé sans délai par les administrateurs.

Vérificateurs

(2) Les actionnaires nomment, à chaque assemblée annuelle, un vérificateur dont le mandat expire à la clôture de la prochaine assemblée annuelle. À défaut de nomination, le vérificateur en fonction poursuit son mandat jusqu'à la nomination de son successeur.

Idem

(3) Les administrateurs peuvent combler toute vacance fortuite du poste de vérificateur. Le vérificateur survivant ou alors en fonction, s'il y en a, peut agir dans l'intervalle.

Vacance fortuite

(4) Sauf si le vérificateur a été nommé en vertu du paragraphe (8), les actionnaires peuvent le révoquer avant l'expiration de son mandat par une résolution adoptée à la majorité

Révocation d'un vérificateur



shall, by a majority of the votes cast at that meeting, appoint another auditor for the remainder of the removed auditor's term.

Notice

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right to  
make  
represent-  
ations

(6) An auditor of a provincial corporation has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning,

- (a) his or her proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his or her resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

Remuneration

(7) The remuneration of an auditor of a provincial corporation appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment  
by Court

(8) If a provincial corporation does not have an auditor, the High Court of Justice, upon the application of a director, a shareholder or the Superintendent, may appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders.

Notice of  
appointment

(9) A provincial corporation, forthwith after the appointment of a person as auditor, shall give written notice of the appointment to the person and to the Superintendent.

des voix exprimées lors d'une assemblée extraordinaire dûment convoquée à cette fin. Lors de cette assemblée ils nomment à la majorité des voix son remplaçant pour la durée du mandat qui reste à courir.

(5) Avant de convoquer soit une assemblée extraordinaire pour les fins visées au paragraphe (4), soit une assemblée annuelle ou extraordinaire si le conseil ne recommande pas de renouveler le mandat du vérificateur en fonction, la compagnie fait parvenir au vérificateur, au moins quinze jours avant l'envoi de l'avis de convocation :

Avis au vérificateur

- a) un avis écrit de son intention de convoquer l'assemblée en y indiquant la date proposée pour l'envoi de l'avis de convocation;
- b) un exemplaire de chacun des documents relatifs à l'assemblée devant être envoyés aux actionnaires.

(6) Le vérificateur de la compagnie provinciale a le droit de soumettre à la compagnie, au moins trois jours avant l'envoi de l'avis de convocation de l'assemblée, des observations par écrit concernant :

Droit de soumettre ses observations

- a) sa révocation proposée comme vérificateur;
- b) la nomination ou l'élection d'une autre personne pour combler son poste;
- c) sa démission en tant que vérificateur.

La compagnie, à ses propres frais, joint un exemplaire de ces observations à l'avis de convocation et le fait parvenir à chaque actionnaire qui a le droit de recevoir cet avis.

(7) La rémunération du vérificateur de la compagnie provinciale nommé par les actionnaires est fixée par ces derniers, ou par les administrateurs s'ils sont autorisés à cet effet par les actionnaires. La rémunération du vérificateur nommé par les administrateurs est fixée par ces derniers.

Rémunération

(8) Si la compagnie provinciale n'a pas de vérificateur, la Haute Cour, à la requête d'un administrateur, d'un actionnaire ou du surintendant, peut lui en nommer un et fixer sa rémunération. Ce vérificateur demeure en fonction jusqu'à la nomination de son successeur par les actionnaires.

Nomination par la Haute Cour

(9) Lorsqu'un vérificateur a été nommé, la compagnie provinciale en avise sans délai celui-ci et le surintendant par écrit.

Avis de la nomination

Notice of  
vacancy

(10) Where a provincial corporation has a vacancy in the office of auditor, it shall give notice of the vacancy forthwith to the Superintendent.

Right to  
attend  
shareholder  
meetings

**114.**—(1) The auditor of a provincial corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, may attend and be heard at any such meeting on matters relating to his or her duties as auditor.

Attend upon  
request

(2) If any director or shareholder of a provincial corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, at least five days before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting, at the expense of the corporation, and answer questions relating to his or her duties as auditor.

Idem

(3) An auditor is not required to comply with subsection (2) where it clearly appears that the request under subsection (2) is made primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the duties of the auditor.

Idem

(4) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation.

Replacement  
auditor

(5) No person shall accept appointment or consent to be appointed as auditor of a provincial corporation if the person is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until the person has requested and received from that auditor a written statement of the circumstances surrounding and the reasons, in the departing auditor's opinion, for the replacement.

Idem

(6) Notwithstanding subsection (5), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, the person does not receive a reply.

Idem

(7) A person receiving a statement under subsection (5) shall promptly deliver a copy of the statement to the Superintendent and if no statement is received from the auditor being replaced within fifteen days after the request referred to in subsection (5), the person requesting the statement shall promptly give notice to the Superintendent of this fact.

(10) La compagnie provinciale avise sans délai le surintendant de toute vacance survenue au poste de vérificateur.

Avis de poste vacant

**114** (1) Le vérificateur de la compagnie provinciale a le droit de recevoir avis de toute assemblée d'actionnaires et peut y assister aux frais de la compagnie et y être entendu sur toute question relative à ses fonctions en tant que vérificateur.

Le vérificateur assiste à l'assemblée des actionnaires

(2) Lorsqu'un administrateur ou un actionnaire habile ou non à voter donnent au vérificateur ou à l'ancien vérificateur de la compagnie provinciale avis écrit, au moins cinq jours avant l'assemblée, celui-ci y assiste aux frais de la compagnie et répond à toute question relative à ses fonctions en tant que vérificateur.

Présence nécessaire sur demande

(3) Le vérificateur n'est pas tenu de se conformer au paragraphe (2) s'il apparaît nettement que sa convocation a pour objet principal, soit une demande personnelle ou le redressement d'un grief personnel contre la compagnie ou l'un de ses administrateurs, dirigeants ou détenteurs de valeurs mobilières, soit une question qui n'a aucun lien important avec les fonctions du vérificateur.

Idem

(4) L'administrateur ou l'actionnaire qui envoie l'avis visé au paragraphe (2) envoie simultanément copie à la compagnie.

Idem

(5) Nul ne doit accepter de remplacer le vérificateur de la compagnie provinciale qui a démissionné ou a été révoqué ou dont le mandat est expiré ou est sur le point d'expirer, avant d'avoir demandé et obtenu que celui-ci expose par écrit les circonstances de son remplacement, ainsi que les motifs qui, à son avis, l'expliquent.

Nouveau vérificateur

(6) Malgré le paragraphe (5), toute personne par ailleurs compétente peut accepter d'être nommée vérificateur si, dans les quinze jours suivant la demande visée à ce paragraphe, elle ne reçoit pas de réponse.

Idem

(7) La personne qui reçoit l'exposé écrit visé au paragraphe (5) envoie promptement une copie au surintendant. L'auteur d'une demande qui ne reçoit pas cet exposé dans les quinze jours en notifie promptement le surintendant.

Idem



Idem

(8) Any interested person may apply to the High Court of Justice for an order declaring the office of auditor of a provincial corporation to be vacant if the auditor has not complied with subsection (5), unless subsection (6) applies with respect to the appointment of the auditor.

No liability

**115.**—(1) An auditor or former auditor who in good faith makes an oral or written statement or report under this Act shall not be liable in any civil action arising therefrom.



Exceptions

(2) Subsection (1) does not relieve an auditor or former auditor from liability in connection with a report referred to in subsection 118 (1) or clause 120 (1) (b).

Disqualification

**116.**—(1) A person is disqualified from being an auditor of a provincial corporation, unless the person is an accountant and independent of,

- (a) the corporation and its affiliates; and
- (b) the directors and officers of the corporation and its affiliates.



Idem

(2) For the purposes of this section,




- (a) independence is a question of fact; and
- (b) a person shall be deemed not to be independent if,
  - (i) the person, the person's business partner or a spouse or child of the person or partner who has the same home as the person or partner, as the case may be,
  - (A) is a business partner, director or officer of the corporation or any of its affiliates,
  - (B) beneficially owns directly or indirectly or exercises control or direction over 10 per cent or more of the voting shares of the corporation or any of its affiliates, or
  - (C) has been a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy of the corporation or any of its affiliates within two years of the person's proposed appointment as auditor of the corporation, or

(8) Toute personne intéressée peut, par voie de requête, demander à la Haute Cour de rendre une ordonnance aux fins de déclarer vacant le poste de vérificateur, si ce dernier ne s'est pas conformé au paragraphe (5), sauf le cas d'application du paragraphe (6). Idem

**115** (1) Le vérificateur ou son prédécesseur qui de bonne foi fait une déclaration ou un rapport, oraux ou écrits, aux termes de la présente loi ne peut pas être tenu responsable dans toute instance civile qui en résulte. Absence de responsabilité

(2) Le paragraphe (1) ne dégage pas le vérificateur ou son prédécesseur de la responsabilité à l'égard du rapport visé au paragraphe 118 (1) ou à l'alinéa 120 (1) b). Exceptions

**116** (1) Pour être vérificateur d'une compagnie provinciale, il faut être comptable et être indépendant : Qualités requises

- a) de la compagnie et des membres du même groupe;
- b) des administrateurs et dirigeants de la compagnie et de ceux des membres du même groupe. 

(2) Pour l'application du présent article : Idem

- a) l'indépendance est une question de fait;

- b) une personne est réputée ne pas être indépendante si :


(i) la personne, son associé ou le conjoint ou l'enfant de la personne ou de l'associé qui habite avec la personne ou avec l'associé, selon le cas :

(A) est un associé, administrateur ou dirigeant de la compagnie ou d'un membre du même groupe,

(B) est le propriétaire à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus des actions de la compagnie assorties du droit de vote ou de celles des membres du même groupe, ou détient le contrôle de ce nombre de ces actions,

(C) a été le séquestre, l'administrateur-séquestre, le liquidateur ou le syndic de faillite de la compagnie ou d'un membre du même groupe dans les deux ans précédant la proposition de sa nomination au poste de vérificateur,



- (ii) the person or the person's business partner is an employee of the corporation or any of its affiliates. 

Saving

(3) No person shall be disqualified from acting as the auditor of a provincial corporation solely on the grounds that the person is a depositor in the corporation.

Resignation

(4) An auditor who becomes disqualified under this section shall resign forthwith upon becoming aware of the disqualification.

Application to Court

(5) An interested person may apply to the High Court of Justice for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Auditor appointment for subsidiary

**117.** A provincial corporation shall, where practical, cause its auditor or one of its auditors to be appointed auditor of any body corporate in which the corporation has invested its funds under section 169, and where such appointment is not practical, the provincial corporation shall inform the Superintendent of the circumstances that prevent the appointment.

Examination

**118.—**(1) An auditor of a provincial corporation shall make such examination of the financial statements required by this Act and the regulations to be placed before shareholders and of the annual return to be filed with the Superintendent under section 135 as is necessary to enable the auditor to report thereon and the auditor shall report as prescribed and in accordance with generally accepted auditing standards.

Reporting error

(2) A director or an officer of a provincial corporation shall forthwith notify the audit committee and the auditor or the former auditor, if applicable, of any error or misstatement of which the director or officer becomes aware in a financial statement or annual return filed with the Superintendent that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be material.

Idem

(3) If an auditor or former auditor of a provincial corporation is notified or becomes aware of an error or misstatement in a financial statement or return filed with the Superintendent upon which the auditor or former auditor has reported and if, in the opinion of the auditor or former auditor, the error or misstatement is material, the auditor or former auditor shall inform each director.

- (ii) la personne ou son associé est un employé de la compagnie ou d'un membre du même groupe. ▲

(3) Ne constitue pas une inhabilité à exercer les fonctions de vérificateur, le seul fait d'être déposant auprès de la compagnie provinciale. Exception

(4) Le vérificateur qui apprend qu'il est devenu inhabile aux termes du présent article démissionne sans délai. Démission

(5) Toute personne intéressée peut, par voie de requête, demander à la Haute Cour de rendre une ordonnance déclarant que le vérificateur est inhabile aux termes du présent article et que le poste est vacant. Requête à la Haute Cour

**117** La compagnie provinciale fait nommer, si cela est pratique, l'un de ses vérificateurs à ce titre auprès de la personne morale dans laquelle la compagnie a effectué des placements aux termes de l'article 169. S'il n'est pas pratique de faire cette nomination, la compagnie provinciale fait part au surintendant des circonstances qui l'empêchent. Vérificateur nommé auprès d'une filiale

**118** (1) Le vérificateur procède à l'examen des états financiers que la présente loi et les règlements exigent de soumettre aux actionnaires ainsi que du rapport annuel devant être déposé auprès du surintendant aux termes de l'article 135 qui est nécessaire afin de lui permettre de produire son rapport. Il fait ce rapport selon les modalités prescrites et conformément aux normes de vérification généralement reconnues. Examen

(2) Tout administrateur ou dirigeant avise sans délai le comité de vérification de même que le vérificateur ou son prédécesseur, selon le cas, des erreurs ou des renseignements inexacts dont il prend connaissance dans les états financiers ou le rapport annuel déposé auprès du surintendant et qui ont fait l'objet d'un rapport de la part du vérificateur ou de l'un de ses prédécesseurs, si ces erreurs ou renseignements inexacts semblent importants compte tenu des circonstances. Avis d'erreurs

(3) Le vérificateur ou celui de ses prédécesseurs qui prend connaissance d'erreurs ou de renseignements inexacts dans des états financiers ou le rapport déposé auprès du surintendant et qui ont fait l'objet d'un rapport de sa part, en informe chaque administrateur s'il est d'avis que ces erreurs ou renseignements inexacts sont importants. Idem

Revised  
financial  
statements

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall promptly prepare and issue revised financial statements or otherwise inform the shareholders.

Notice to  
Superin-  
tendent

(5) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a return filed with the Superintendent, the directors shall promptly notify the Superintendent.

Right of  
access

(6) Upon the demand of an auditor of a provincial corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such,

(a) information and explanations; and

(b) access to records, documents, books, accounts and vouchers of the corporation and any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

Idem

(7) Upon the demand of the auditor of a provincial corporation, the directors of the corporation shall,

(a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section; and

(b) furnish the information and explanations so obtained to the auditor.

No liability

(8) A person who in good faith makes an oral or written communication under subsection (6) or (7) shall not be liable in any civil action arising therefrom.

Reports to  
board

➡ **119.**—(1) The auditor shall report to the board of directors of the provincial corporation whenever he or she becomes aware that,

(4) Lorsque le vérificateur ou son prédécesseur informent les administrateurs de l'existence d'erreurs ou de renseignements inexacts dans les états financiers aux termes du paragraphe (3), les administrateurs en informent promptement les actionnaires, notamment en dressant et en publiant des états financiers rectifiés.

États financiers rectifiés

(5) Les administrateurs notifient promptement le surintendant des erreurs ou des renseignements inexacts reproduits dans un rapport qui est déposé auprès de celui-ci et qui leur sont signalés par le vérificateur ou son prédécesseur aux termes du paragraphe (3).

Avis au surintendant

(6) À la demande du vérificateur, les administrateurs, dirigeants, employés ou mandataires de la compagnie provinciale ou leurs prédécesseurs doivent :

Droit d'accès

- a) lui donner des renseignements et des éclaircissements;
- b) lui donner accès aux dossiers, documents, livres, comptes et pièces justificatives de la compagnie ou de ses filiales,

qui, à son avis, sont nécessaires aux fins de l'examen et du rapport visés par le présent article et que ces personnes sont raisonnablement en mesure de fournir.

(7) À la demande du vérificateur, les administrateurs de la compagnie provinciale doivent :

Idem

- a) obtenir des administrateurs, dirigeants, employés ou mandataires de toute filiale de la compagnie ou de leurs prédécesseurs, tous les renseignements et éclaircissements que ces personnes sont raisonnablement en mesure de fournir et qui, de l'avis du vérificateur, sont nécessaires aux fins de l'examen et du rapport visés par le présent article;
- b) communiquer au vérificateur les renseignements et éclaircissements ainsi obtenus.


(8) La personne qui de bonne foi fait une divulgation orale ou écrite aux termes des paragraphes (6) ou (7) ne peut pas être tenue responsable dans toute instance civile qui en résulte.

Absence de responsabilité



**119** (1) Lorsque le vérificateur apprend l'existence d'une des circonstances suivantes, il fait rapport au conseil d'administration de la compagnie provinciale :

Rapport au conseil d'administration

- (a) there has been a change in the circumstances of the corporation that might reasonably be expected to materially and adversely affect the financial position of the corporation;
- (b) there are circumstances that indicate that there may have been a contravention of this Act or the regulations; or
- (c) there are circumstances that indicate that there may have been a contravention of the *Securities Act*, the *Income Tax Act* (Canada) or the regulations made under those Acts. 

R.S.O. 1980,  
c. 466  
R.S.C. 1952,  
c. 148

Idem

(2) The auditor shall make a report under subsection (1) immediately upon becoming aware of a change or contravention described in that subsection.

Notice to  
Superin-  
tendent

(3) The auditor shall report to the Superintendent any matter dealt with in a report under subsection (1) which in the opinion of the auditor could affect the well-being of the provincial corporation and has not been corrected or appropriately responded to by the board of directors within thirty days of the day that the matter was reported to the board of directors.

Exception

(4) An auditor is not required to make a report under this section unless the auditor becomes aware of the change or contravention described in subsection (1) in the ordinary course of his or her duties as auditor.


Financial  
statements,  
etc., to be  
given to  
shareholders

**120.**—(1) The directors of a provincial corporation shall place before each annual meeting of shareholders,



- (a) financial statements in consolidated form for the fiscal year ending on the last day of October, November or December before the annual meeting made up of,
  - (i) a statement of income for the year,
  - (ii) a statement of retained earnings for the year,
  - (iii) a statement of changes in financial position for the year,
  - (iv) a balance sheet as at the end of the year,
  - (v) for the second and subsequent fiscal years, the comparative figures for the preceding year;



- a) la conjoncture dans laquelle se trouve la compagnie a subi une modification vraisemblablement susceptible de porter gravement atteinte à sa situation financière;
- b) certaines indications signalent qu'il y a peut-être eu contravention à la présente loi ou aux règlements;
- c) certaines indications signalent qu'il y a peut-être eu contravention à la *Loi sur les valeurs mobilières*, à la *Loi de l'impôt sur le revenu* (Canada) ou aux règlements pris en application de ces lois. 


L.R.O. 1980,  
chap. 466  
S.R.C. 1952,  
chap. 148

(2) Le vérificateur fait rapport aux termes du paragraphe (1) dès qu'il a connaissance de la modification ou de la contravention visées à ce paragraphe. Idem

(3) Le vérificateur fait rapport au surintendant de toute situation relevée dans le rapport prévu au paragraphe (1) qui, à son avis, est susceptible de porter atteinte à la bonne marche de la compagnie provinciale et que le conseil d'administration n'a pas corrigée ou à laquelle il n'a pas donné réponse dans les trente jours de la date à laquelle la situation lui a été signalée. Rapport au  
surintendant

(4) Le vérificateur n'est pas tenu de faire rapport aux termes du présent article, à moins que la modification ou la contravention visées au paragraphe (1) ne soient portées à sa connaissance lors de l'exercice normal de ses fonctions en tant que vérificateur. Exception

**120** (1) Les administrateurs de la compagnie provinciale présentent à chaque assemblée annuelle des actionnaires : États finan-  
ciers remis  
aux  
actionnaires

- 
- a) des états financiers consolidés pour l'exercice se terminant le dernier jour d'octobre, de novembre ou de décembre qui précède l'assemblée annuelle et qui comprennent :
    - (i) l'état des résultats de cet exercice,
    - (ii) l'état des bénéfices non répartis de cet exercice,
    - (iii) l'état de l'évolution de la situation financière pendant cet exercice,
    - (iv) le bilan à la fin de l'exercice,
    - (v) les chiffres correspondants de l'exercice précédent, s'il s'agit du deuxième exercice ou d'un exercice subséquent;



- (b) the report of the auditor to the shareholders on the statements referred to in subclauses (a) (i) to (iv);
- (c) the financial statement of the corporation in consolidated form;
- (d) any further information respecting the financial position of the corporation and the results of its operations required by its instrument of incorporation or its by-laws or by this Act or the regulations.

Copy of documents to shareholders

(2) A provincial corporation, not less than twenty-one days before each annual meeting of shareholders unless such period is waived by the shareholders, shall send a copy of the documents referred to in this section to each shareholder, except those who have informed the corporation in writing that they do not wish to receive copies of the documents.

Copy of documents to depositors

(3) A provincial corporation shall mail or deliver without charge a copy of the documents referred to in this section to every depositor of the corporation who in writing requests a copy.

Preparation of financial statements

**121.** The financial statements required under this Act shall be prepared in accordance with this Act and the regulations and, except as otherwise required under this Act and the regulations, in accordance with generally accepted accounting principles.

Audit committee

**122.—**(1) The audit committee of a provincial corporation shall meet at least twice each year to review,

- (a) any financial statements distributed to the shareholders;
- (b) the annual returns of the corporation filed with the Superintendent under section 135;
- (c) all reports of the auditor under section 119; and
- (d) any reports or transactions required by the regulations to be reviewed by the audit committee.

Idem

(2) In the case of statements and returns that under this Act must be approved by the board of directors of a provincial corporation, the audit committee shall report thereon to the board before the approval is given.

Auditor's attendance

(3) The auditor of a provincial corporation is entitled to attend and be heard at all meetings of the audit committee and shall attend at least two of its meetings each year.

- b) le rapport du vérificateur destiné aux actionnaires concernant les états financiers visés aux sous-alinéas a) (i) à (iv);
- c) les états financiers non consolidés de la compagnie;
- d) tout renseignement supplémentaire concernant la situation financière de la compagnie ainsi que le produit de ses opérations qu'exigent son acte constitutif, son règlement intérieur, la présente loi ou les règlements.

(2) Sauf si les actionnaires renoncent à ce délai, la compagnie provinciale envoie au moins vingt et un jours avant l'assemblée annuelle à ceux d'entre eux qui n'ont pas exprimé par écrit leur désir de ne pas les recevoir, une copie des documents visés au présent article.

Exemplaire  
des docu-  
ments aux  
actionnaires

(3) La compagnie provinciale poste ou délivre gratuitement, à chaque déposant qui en fait la demande par écrit, une copie des documents visés au présent article.

Exemplaire  
des docu-  
ments aux  
déposants

**121** Les états financiers exigés aux termes de la présente loi sont dressés en conformité avec celle-ci et les règlements et, sauf disposition contraire de la présente loi ou des règlements, selon les normes comptables généralement reconnues.

Établissement  
des états  
financiers

**122** (1) Les membres du comité de vérification de la compagnie provinciale se réunissent au moins deux fois l'an afin d'examiner :

Comité de  
vérification

- a) les états financiers remis aux actionnaires;
- b) les rapports annuels de la compagnie déposés auprès du surintendant aux termes de l'article 135;
- c) tous les rapports du vérificateur visés à l'article 119;
- d) les rapports et opérations dont les règlements exigent un examen par le comité de vérification.

(2) Le comité de vérification fait préalablement rapport au conseil d'administration des états et des rapports qui doivent être approuvés par celui-ci aux termes de la présente loi.

Idem

(3) Le vérificateur de la compagnie provinciale a le droit d'assister et d'être entendu à toutes les réunions du comité de vérification, et doit y assister au moins deux fois l'an.

Présence du  
vérificateur

Calling  
meeting

(4) The auditor, a member of the audit committee or a director may call a meeting of the audit committee of a provincial corporation at any time.

Attendance  
at  
meetings of  
board of  
directors

(5) The auditor of a provincial corporation is entitled to attend and be heard at meetings of the board of directors on matters relating to his or her duties as auditor.

Notice of  
meetings

(6) The board of directors and the audit committee of a provincial corporation shall give reasonable notice of their meetings to the corporation's auditor.

Approval by  
directors

**123.**—(1) The financial statements of a provincial corporation shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statements.

Idem

(2) One of the directors signing a balance sheet as required by subsection (1) must be a member of the audit committee.

Publishing,  
etc., of  
financial  
statements

(3) A provincial corporation shall not circulate copies of the financial statements of the provincial corporation referred to in section 120 unless the financial statements are,

(a) approved and signed in accordance with subsections (1) and (2); and

(b) accompanied by the report of the auditor of the corporation.

Interim  
financial  
statement

**124.**—(1) A provincial corporation that is an offering corporation shall send to each shareholder a copy of every interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.


R.S.O. 1980,  
c. 466

Idem


(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the date to which it is made up, at the shareholder's latest address as shown on the records of the corporation.

Exception


(3) Notwithstanding subsection (2), interim financial statements need not be sent to those shareholders who have informed the corporation in writing that they do not wish to receive them.

(4) Le comité de vérification de la compagnie provinciale peut être convoqué par l'un de ses membres, par le vérificateur ou par un administrateur. 

Convocation  
aux réunions

(5) Le vérificateur de la compagnie provinciale a le droit d'assister aux réunions du conseil d'administration et à y être entendu sur toute question relative à ses fonctions en tant que vérificateur. 

Présence aux  
réunions du  
conseil d'ad-  
ministration

(6) Le conseil d'administration et le comité de vérification de la compagnie provinciale donnent au vérificateur de la compagnie un préavis suffisant de leurs réunions. 

Préavis des  
réunions

**123** (1) Les états financiers doivent recevoir l'approbation du conseil d'administration, qui doit être attestée par la signature au bas du bilan de deux des administrateurs dûment autorisés à cet effet. Le rapport du vérificateur accompagne les états financiers ou y est annexé.

Approbation  
par les admi-  
nistrateurs

(2) L'un des administrateurs qui appose sa signature au bas du bilan conformément au paragraphe (1) doit être membre du comité de vérification.

Idem

(3) La compagnie provinciale ne doit diffuser les états financiers visés à l'article 120 que s'ils :

Diffusion des  
états  
financiers


a) ont été approuvés et signés conformément aux paragraphes (1) et (2);

b) sont accompagnés du rapport du vérificateur.


**124** (1) La compagnie provinciale qui fait appel au public envoie à chaque actionnaire un exemplaire de chaque état financier périodique dont la *Loi sur les valeurs mobilières* et ses règlements exigent le dépôt.

État financier  
périodique

L.R.O. 1980,  
chap. 466

(2) L'état financier périodique visé au paragraphe (1) est envoyé, dans un délai de soixante jours après la date de son établissement, à chaque actionnaire à sa dernière adresse qui paraît aux dossiers de la compagnie. 

Idem

(3) Malgré le paragraphe (2), il n'est pas nécessaire d'envoyer des états financiers périodiques aux actionnaires qui ont exprimé par écrit leur désir de ne pas les recevoir. 

Exception

## PART VIII

## BOOKS, RECORDS AND RETURNS

## Records

**125.**—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any photographic system, any system of mechanical or electronic data processing or any other information storage system and it shall be kept for such period as may be prescribed.

Security of  
records and  
availability

(2) A corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded in its records; and
- (b) provide means for making the information recorded in its records available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

Admissibility  
of records in  
evidence

(3) The bound or looseleaf book referred to in subsection (1) or, where the record is not kept in a book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

False  
information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or knowing any information to be untrue, shall record or assist in recording it in a record.

Location of  
records

**126.**—(1) Every registered corporation shall keep its instrument of incorporation and its by-laws at its principal place of business or at such place in Ontario other than the principal place of business as the directors designate and the corporation shall maintain at the principal place of business or at the designated place,

- (a) minutes of meetings and resolutions of shareholders;
- (b) a register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;



## PARTIE VIII

## LIVRES, DOSSIERS ET RAPPORTS

**125** (1) Les dossiers dont la présente loi requiert la tenue peuvent être conservés soit dans un livre relié ou à feuilles mobiles, soit à l'aide d'un procédé de mise en mémoire de l'information, notamment d'un procédé photographique ou d'un procédé mécanique ou électronique de traitement des données. Ils sont conservés pendant la période prescrite.

Dossiers

(2) La compagnie prend :

Prévention de la falsification des dossiers

- a) les mesures adéquates qui s'imposent en fonction du mode utilisé afin d'empêcher la falsification des inscriptions consignées à ses dossiers;
- b) des mesures afin de communiquer dans un délai normal des renseignements consignés à ses dossiers sous une forme compréhensible et précise, à la personne autorisée par la loi à les consulter.

(3) Sont recevables comme preuve *prima facie* de leur contenu, avant et après la dissolution de la compagnie, les livres visés au paragraphe (1), ou, si les dossiers ne sont pas conservés dans un livre, les renseignements sous la forme sous laquelle ils sont communiqués aux termes de l'alinéa (2) b).

Recevabilité de la preuve d'après les dossiers

(4) Nul ne doit soustraire, retenir ou supprimer les renseignements dont la présente loi ou les règlements exigent l'inscription, ou, sachant que des renseignements sont faux, les inscrire ou aider à leur inscription dans un dossier.

Falsification des renseignements

**126** (1) La compagnie inscrite conserve à son établissement principal ou dans un autre endroit en Ontario que désignent les administrateurs son acte constitutif et son règlement intérieur. Elle y conserve aussi :

Endroit où sont conservés les dossiers

- a) les procès-verbaux des assemblées et les résolutions des actionnaires;
- b) un registre des administrateurs où sont inscrits les noms et adresses personnelles, incluant la rue et le numéro, le cas échéant, de toutes les personnes qui sont ou qui ont été des administrateurs, de même que leurs diverses dates de désignation et de cessation des fonctions;



- (c) a securities register complying with section 127; and
- (d) a copy of the procedures referred to in section 154.

Idem

(2) An extra-provincial corporation that does not have its head office in Ontario shall be deemed to have complied with subsection (1) if it maintains at a place in Ontario designated by the directors a copy of its instrument of incorporation and its by-laws, and a copy of every minute, resolution, record and register referred to in clauses (1) (a), (b) and (c).

Idem

(3) In addition to the records described in subsection (1), a provincial corporation shall maintain in Ontario, and a registered extra-provincial corporation shall maintain in Canada,

- (a) adequate accounting records as required by this Act or the regulations;
- (b) records containing minutes of meetings and resolutions of the directors and every committee thereof;
- (c) a record of all investments held by the corporation; and
- (d) copies of all returns to the Superintendent required by this Act or the regulations.

Idem

(4) In addition to the records described in subsections (1) and (3), a registered corporation shall maintain in Canada,

- (a) a record of all depositors, their names and addresses as far as is known and the sums deposited by such depositors;
- (b) where the corporation is a trust corporation, full and adequate records relating to the fiduciary activities of the corporation.

Securities  
register

**127.**—(1) A provincial corporation shall maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

- (a) the names, alphabetically arranged of persons who,
  - (i) are or have been within six years registered as shareholders of the corporation, the residency of such shareholders, the address including the street and number, if any, of every such person while a holder, and the number and class or series of shares registered in the name of such holder,

- c) un registre des valeurs mobilières conforme à l'article 127;
- d) un exemplaire de la procédure écrite visée à l'article 154.

(2) La compagnie extraprovinciale dont le siège social est situé en dehors de l'Ontario est réputée s'être conformée au paragraphe (1) si elle conserve, dans l'endroit de l'Ontario que désignent les administrateurs, une copie de son acte constitutif, de son règlement intérieur, ainsi que des procès-verbaux, résolutions, dossiers, et registres visés aux alinéas (1) a), b) et c). Idem

(3) Outre les dossiers visés au paragraphe (1), la compagnie provinciale tient en Ontario et la compagnie extraprovinciale inscrite tient au Canada : Idem

- a) des registres comptables adéquats tels qu'exigés par la présente loi ou les règlements;
- b) des dossiers où figurent les procès-verbaux des réunions du conseil d'administration et de ses comités, ainsi que leurs résolutions;
- c) un dossier de tous les placements détenus par la compagnie;
- d) une copie de tous les rapports dont la présente loi ou les règlements exigent le dépôt auprès du surintendant.

(4) Outre les dossiers visés aux paragraphes (1) et (3), la compagnie inscrite tient au Canada : Idem

- a) un dossier de tous les déposants, incluant leurs noms et adresses dans la mesure où ils sont connus, de même que les sommes qu'ils ont déposées;
- b) s'il s'agit d'une compagnie de fiducie, des dossiers adéquats et détaillés relativement aux activités fiduciaires de la compagnie.

**127** (1) La compagnie provinciale tient un registre des valeurs mobilières où sont inscrites les valeurs mobilières nominatives qu'elle a émises, énonçant quant à chaque catégorie ou série : Registre des valeurs mobilières

- a) les noms, par ordre alphabétique, des personnes qui sont ou qui au cours des six dernières années ont été inscrites :

- (ii) are or have been within six years registered as holders of subordinated notes of the corporation, the address including the street and number, if any, of every such person while a holder, and the principal amount of the subordinated notes registered in the name of such holder, or
- (iii) are or have been within six years registered as holders of warrants of the corporation, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and

(b) the date and particulars of the issue of each security.

Transfer  
register

(2) A provincial corporation shall cause to be kept in Ontario a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out.

Branch  
transfer  
registers

(3) A provincial corporation may maintain branch transfer registers at one or more places in Canada.

Transfer  
agents

**128.** For each class of securities issued by it, a provincial corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities of the corporation or any class or classes thereof.

Valid  
registration

**129.**—(1) Registration of the transfer of a security of a provincial corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

- (i) à titre d'actionnaires, de même que leur résidence, l'adresse de chacune d'elles à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que le nombre et la catégorie ou série d'actions inscrites à leur nom,
  - (ii) à titre de détenteurs de titres subalternes, de même que leur adresse à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que le montant en capital des titres subalternes inscrits à leur nom,
  - (iii) à titre de détenteurs de bons de souscription de la compagnie, de même que leur adresse à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que la catégorie ou la série et le nombre de bons inscrits à leur nom;
- b) la date de même que les détails de l'émission de toutes les valeurs mobilières.

(2) La compagnie provinciale tient un registre des transferts où sont inscrits tous les transferts de valeurs mobilières nominatives qu'elle a émises et où sont énoncés la date et les autres détails relatifs à chacun des transferts.

Registre des transferts

(3) La compagnie provinciale peut tenir des registres locaux de transferts à plus d'un endroit au Canada.

Registres locaux de transferts

**128** La compagnie provinciale peut, à l'égard de chaque catégorie de valeurs mobilières qu'elle émet :

Agents des transferts

- a) confier la tenue du registre des valeurs mobilières et du registre des transferts à un fiduciaire, agent des transferts ou autre agent, et confier la tenue de registres locaux à une ou plusieurs personnes ou agents;
- b) confier la tenue d'un dossier des certificats de valeurs mobilières et des bons de souscription émis à un agent d'inscription, fiduciaire ou autre agent.

Une seule personne peut être nommée aux fins des alinéas a) et b) relativement à toutes catégories de valeurs mobilières ou relativement à une ou plusieurs catégories de celles-ci.

**129** (1) L'inscription de valeurs mobilières au registre des transferts ou au registre local des transferts de la compagnie provinciale constitue une inscription complète et valide à toutes fins.

Inscription valide

Entry in  
register of  
transfers

(2) Particulars of every transfer of securities registered in every branch register of transfers shall be recorded in the register of transfers.

Documents  
not  
required to  
be  
produced

(3) A provincial corporation or a person appointed under section 128 is not required to produce,

- (a) any security certificate or warrant that is not in registered form; or
- (b) any security certificate or warrant that is in registered form after six years,
  - (i) in the case of a share certificate, from the date of its cancellation,
  - (ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or
  - (iii) in the case of a subordinated note, from the date of cancellation of the note.

Open to  
examination

**130.**—(1) The records mentioned in sections 126, 127 and 129 shall, during normal business hours of a corporation, be open to examination by any director.

Records of  
account at  
branch

(2) A registered corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the principal place of business of the corporation or such other place as is authorized under this Part such records as will enable the directors to ascertain the financial position of the corporation.

Copies

**131.** A shareholder of a provincial corporation is entitled upon request and without charge to one copy of the instrument of incorporation and the by-laws and the amendments thereto.

List of  
shareholders

**132.**—(1) Upon payment of a reasonable fee and upon sending to a provincial corporation or its transfer agent the statutory declaration described in subsection (6), any person may require the corporation or its transfer agent to furnish within ten days of receipt by the corporation of the statutory declaration a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.



(2) Les détails de chaque transfert de valeurs mobilières qui figurent aux registres locaux sont inscrits au registre des transferts. Inscription au registre des transferts

(3) La compagnie provinciale ou la personne nommée en vertu de l'article 128 n'est pas tenue de produire : Documents non exigés

- a) le certificat d'une valeur mobilière ou le bon de souscription non nominatifs;
- b) le certificat d'une valeur mobilière ou le bon de souscription nominatifs, six ans après :
  - (i) la date de son annulation, dans le cas d'un certificat d'action,
  - (ii) la date du transfert ou celle de l'exercice du droit qu'il représente, selon la première de ces dates, dans le cas d'un bon de souscription,
  - (iii) la date de son annulation, dans le cas du titre subalterne.

**130** (1) Les dossiers visés aux articles 126, 127 et 129 sont accessibles aux administrateurs pour consultation durant les heures de bureau de la compagnie. Dossiers accessibles pour consultation

(2) La compagnie inscrite peut conserver à tout endroit où elle exerce ses activités, la partie des dossiers comptables qui a trait aux opérations et aux activités commerciales qui se déroulent ou qui sont supervisées à cet endroit, ou qui a trait à l'actif et au passif comptabilisés à cet endroit. Les dossiers qui permettent aux administrateurs de vérifier la situation financière de la compagnie sont cependant conservés à son établissement principal ou à l'autre endroit autorisé aux termes de la présente partie. Dossiers comptables aux diverses succursales

**131** L'actionnaire qui en fait la demande a droit à un exemplaire gratuit de l'acte constitutif, du règlement intérieur, et de leurs modifications. Exemplaire

**132** (1) Toute personne peut, moyennant le paiement de droits raisonnables et l'envoi à la compagnie provinciale ou à son agent des transferts de la déclaration solennelle visée au paragraphe (6), exiger que ceux-ci, dans les dix jours de la réception de la déclaration solennelle, remettent une liste principale qui énonce les noms, le nombre d'actions de chaque catégorie et série de même que l'adresse de chaque actionnaire tels qu'ils figurent aux dossiers de la compagnie. Liste des actionnaires





Idem

(2) The list referred to in subsection (1) when furnished shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental  
lists

(3) A person requiring a corporation to supply a list under subsection (1) may, if the person states in the statutory declaration described in subsection (6) that the person requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

Idem

(5) A person requiring a corporation to supply a basic or supplemental list under this section may also require the corporation to include in the list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory  
declaration

(6) The statutory declaration referred to in subsection (1) shall state,

- (a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, holder of a subordinated note or any other person referred to in subsection (1);
- (b) if the applicant is a body corporate, its address for service; and
- (c) that the basic list and any supplemental lists may be used only as permitted under subsection (8).

(2) La liste visée au paragraphe (1) est à jour dans la mesure du possible, eu égard au mode de tenue des registres des valeurs mobilières adopté par la compagnie. Cette mise à jour ne doit pas remonter à plus de dix jours de la remise de la liste. Idem

(3) La personne qui affirme dans la déclaration solennelle visée au paragraphe (6) avoir besoin, outre la liste principale mentionnée au paragraphe (1), de listes supplétives, peut, moyennant le paiement d'un droit raisonnable, en exiger la remise par la compagnie ou son mandataire. Les listes supplétives énoncent, à l'égard de chaque jour ouvrable depuis la mise à jour de la liste principale, les modifications apportées aux noms et adresses des actionnaires et au nombre d'actions détenues par chacun d'eux. Listes supplétives

(4) La compagnie ou son mandataire remet la liste supplétive exigée aux termes du paragraphe (3) : Idem

- a) en même temps que la liste principale, si les modifications sont antérieures à la date de la remise;
- b) le jour ouvrable qui suit la date indiquée dans la liste supplétive, si les modifications se sont produites à la date de la remise de la liste principale ou à une date postérieure.

(5) La personne qui exige que la compagnie remette une liste principale ou supplétive aux termes du présent article, peut également exiger que la compagnie fasse figurer sur cette liste les noms et adresses des détenteurs connus d'une option ou d'un droit d'acquérir des actions de la compagnie. Liste des détenteurs d'options

(6) La déclaration solennelle visée au paragraphe (1) énonce : Déclaration solennelle

- a) les nom et adresse, y compris la rue et le numéro, le cas échéant, de l'auteur de la demande de même que son titre d'actionnaire, de détenteur d'un titre subalterne ou autre titre visés au paragraphe (1);
- b) si l'auteur de la demande est une personne morale, le domicile élu;
- c) que la liste principale de même que les listes supplétives ne peuvent être utilisées qu'aux fins énoncées au paragraphe (8).

Idem


(7) If the applicant is a body corporate, the statutory declaration described in subsection (6) shall be made by a director or officer of the body corporate.

Use of  
information

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with,

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation.


Maximum  
fee

(9) The fee referred to in subsections (1) and (3) shall not exceed such amount as may be prescribed. 

Trafficking  
in lists

**133.** No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities of a provincial corporation.


Returns

**134.** Every registered corporation at the times prescribed shall provide to the Superintendent such financial or other information as may be prescribed. 

Annual  
return

**135.**—(1) Every registered corporation shall prepare annually for the information of the Superintendent an annual return, in the prescribed form, outlining the financial condition and affairs of the corporation for the fiscal year of the corporation, and the return shall be filed with the Superintendent within ninety days after the end of the period to which it relates.

Idem

(2) The return referred to in subsection (1) shall have attached to it the financial statements for the year to which the annual return relates. 

Idem

(3) The return referred to in subsection (1) shall have attached to it a report of the auditor, which report shall be prepared in accordance with the regulations.

Idem

(4) The return referred to in subsection (1) shall be accompanied by a copy of a resolution of the directors showing that the return was approved by them.

Filing of  
financial  
statements

**136.** Every registered corporation shall file with the Superintendent a copy of every statement of a financial nature related to the corporation furnished to its shareholders or the

(7) Si l'auteur de la demande est une personne morale, l'un de ses administrateurs ou dirigeants fait la déclaration solennelle visée au paragraphe (6). Idem

(8) La liste des actionnaires obtenue en vertu du présent article ne doit pas être utilisée que dans le cadre : Utilisation de la liste

- a) de tentatives en vue d'influencer le vote des actionnaires de la compagnie;
- b) de l'offre d'acquérir des actions de la compagnie;
- c) de toute autre question concernant les affaires de la compagnie.

(9) Le droit visé aux paragraphes (1) et (3) ne doit pas être supérieur au montant prescrit. Droit maximal

**133** Nul ne doit trafiquer, notamment en les offrant en vente, en les vendant ou en les achetant, des listes ou copies de listes des détenteurs de valeurs mobilières de la compagnie provinciale. Trafic des listes

**134** La compagnie inscrite fournit au surintendant, dans le délai imparti, les renseignements prescrits d'ordre financier ou autre. Rapports

**135** (1) La compagnie inscrite dresse chaque année à l'intention du surintendant un rapport, selon la formule prescrite, qui énonce la situation et les affaires financières de la compagnie pour son exercice. Ce rapport est déposé auprès du surintendant dans les quatre-vingt-dix jours qui suivent la fin de la période visée. Rapport annuel

(2) Le rapport visé au paragraphe (1) est accompagné des états financiers de l'exercice visé par le rapport annuel. Idem

(3) Le rapport visé au paragraphe (1) est accompagné du rapport du vérificateur, préparé conformément aux règlements. Idem

(4) Le rapport visé au paragraphe (1) est accompagné aussi d'une copie de la résolution qui confirme son approbation par les administrateurs. Idem

**136** La compagnie inscrite dépose auprès du surintendant une copie de chaque état d'ordre financier concernant la compagnie et destiné aux actionnaires ou déposé auprès de la Commission des valeurs mobilières de l'Ontario ou de l'admi- Dépôt des états financiers

Ontario Securities Commission or any similar authority in another jurisdiction within five days after the distribution of the statement to the shareholders or its filing with the Commission or similar authority.

Filing of  
corporate  
changes

**137.** Every registered corporation shall file with the Superintendent,

- (a) copies of all applications and supporting documents of any nature made under such laws, as may be prescribed, of Canada or of any province or territory of Canada for any change in its instrument of incorporation or registration status and shall also file with the Superintendent a copy of any approval or refusal of such application within seven days of filing or receipt, as the case may be; and
- (b) copies of any changes made in its instrument of incorporation, registration or licence under the laws of Canada or of any province or territory of Canada.

Provision of  
information

**138.**—(1) Every registered corporation shall provide to The Trust Companies Association of Canada Inc. such financial and statistical information as may be prescribed.

Publication

(2) Where The Trust Companies Association of Canada Inc. receives information under subsection (1), it shall report to the public such financial and statistical information as may be prescribed at such periods as may be prescribed.

Public file

**139.**—(1) The Superintendent shall maintain a file on each registered corporation which shall contain such information as may be prescribed.

Idem

(2) Upon payment of the prescribed fee, any person, during usual office hours, may examine the registers referred to in section 30 and the file referred to in subsection (1) and may take extracts therefrom or obtain copies thereof.

## PART IX

### CONFLICT OF INTEREST

Power to  
designate  
person as  
restricted  
party

**140.**—(1) For the purposes of this Part, the Superintendent may designate,

- (a) any person to be a restricted party of a registered corporation if the Superintendent is of the opinion that,



nistration semblable d'une autre compétence législative, dans les cinq jours de sa distribution aux actionnaires ou de son dépôt auprès de la Commission ou de l'administration semblable.

**137** La compagnie inscrite dépose auprès du surintendant :

Dépôt des modifications aux statuts constitutifs

- a) une copie des demandes de modification à son acte constitutif ou à son statut d'inscription de même que des pièces justificatives de toute nature qui s'y rattachent, présentées en vertu des lois du Canada, d'une province ou d'un territoire du Canada qui sont prescrites. Elle dépose aussi, dans les sept jours du dépôt ou de la réception, selon le cas, une copie de l'approbation ou du rejet des demandes;
- b) une copie de chaque modification apportée soit à son acte constitutif, soit à son inscription ou à son permis, en vertu des lois du Canada, d'une province ou d'un territoire du Canada.

**138** (1) La compagnie inscrite communique à L'Association des compagnies de fiducie du Canada Inc. les renseignements prescrits d'ordre financier et statistique.

Communication de renseignements

(2) Si cette association reçoit des renseignements aux termes du paragraphe (1), elle rend publics, aux intervalles prescrits, les renseignements prescrits d'ordre financier et statistique.

Publicité

**139** (1) Le surintendant tient, relativement à chaque compagnie inscrite, un dossier qui renferme les renseignements prescrits.

Dossiers publics

(2) Une personne peut, moyennant le paiement des droits prescrits, consulter durant les heures de bureau les registres visés à l'article 30 et le dossier visé au paragraphe (1) et en tirer des extraits ou en obtenir des copies.

Idem

## PARTIE IX

### CONFLITS D'INTÉRÊTS

**140** (1) Pour l'application de la présente partie, le surintendant peut, à l'égard d'une compagnie inscrite, désigner en tant que personne assujettie à des restrictions :

Désignation d'une personne assujettie à des restrictions

- a) une personne, s'il est d'avis :



- (i) the person is acting in concert with a restricted party of the corporation to participate in or enter into an investment or other transaction with the corporation that would be prohibited or restricted if entered into with the corporation by the restricted party, or
- (ii) there exists between the person and the corporation such an interest or relationship as might reasonably be expected to affect the exercise of the best judgment of the corporation with respect to an investment or other transaction; or

- (b) any shareholder of a registered corporation or of an affiliate of a registered corporation to be a restricted party of the corporation if the Superintendent is of the opinion that the shareholder is acting in concert with one or more other shareholders of the corporation or of an affiliate to control directly or indirectly 10 per cent or more of any class of shares of the registered corporation.

Revocation  
of  
designation

(2) On the application of the restricted party or the registered corporation, the Superintendent may revoke a designation made under subsection (1).

Hearing

(3) Before making a designation or refusing to revoke a designation made under subsection (1), the Superintendent shall give the person whom he or she proposes to designate or has designated and the registered corporation an opportunity to be heard.

Prohibitions,  
restricted  
parties

**141.**—(1) Except as provided in this Part,

- (a) no registered corporation or subsidiary of a registered corporation shall directly or indirectly purchase from or lend to a restricted party of the corporation or enter any other transaction with a restricted party of the corporation; and
- (b) no restricted party of a registered corporation shall directly or indirectly purchase from or lend to the corporation or any subsidiary of the corporation or enter any other transaction with the corporation or any subsidiary of the corporation.

Idem,  
directors

(2) Except as provided in clause 142 (1) (a), no registered corporation or subsidiary of a registered corporation shall

(i) que celle-ci, de concert avec une personne assujettie à des restrictions à l'égard de la compagnie, participe ou souscrit à des placements ou autres opérations avec la compagnie qui seraient interdits ou restreints s'ils étaient conclus avec la compagnie par cette deuxième personne,

(ii) qu'il existe entre la personne et la compagnie un intérêt ou des rapports vraisemblablement susceptibles d'empêcher celle-ci d'évaluer de façon objective le bien-fondé d'un placement ou d'une autre opération;

b) l'actionnaire de la compagnie inscrite ou du membre du même groupe, si le surintendant est d'avis que cet actionnaire, de concert avec un ou plusieurs autres actionnaires de la compagnie ou d'un membre du même groupe, cherche à exercer directement ou indirectement le contrôle sur 10 pour cent ou plus d'une catégorie d'actions de la compagnie.



(2) À la demande de la personne assujettie à des restrictions ou de la compagnie inscrite, le surintendant peut révoquer une désignation faite en vertu du paragraphe (1).

Révocation  
de la  
désignation

(3) Avant de faire une désignation ou de refuser de révoquer une désignation faite en vertu du paragraphe (1), le surintendant donne à la personne qu'il se propose de désigner ou qu'il a déjà désignée, ainsi qu'à la compagnie inscrite, la possibilité de se faire entendre.

Audience



#### **141** (1) Sauf disposition contraire de la présente partie :

Interdictions

a) nulle compagnie inscrite ou sa filiale ne doit, directement ou indirectement, effectuer d'achats auprès de la personne assujettie à des restrictions à son égard, lui consentir un prêt ou conclure avec elle une autre opération;

b) nulle personne assujettie à des restrictions à l'égard de la compagnie inscrite ne doit, directement ou indirectement, effectuer d'achats auprès de la compagnie ou de sa filiale, lui consentir un prêt ou conclure avec elle une autre opération.

(2) Sous réserve de l'alinéa 142 (1) a), nulle compagnie inscrite ou sa filiale ne doit sciemment effectuer de placements

Idem. admi-  
nistrateurs

knowingly invest by way of purchase of or loans on the security of real estate that at any time in the period of thirty-six months preceding the date of the advance of any funds by the corporation or its subsidiary was owned by a director or the spouse or child of the director or any relative of the director or spouse who has the same home as the director.

Exception

(3) This Part does not apply so as to prevent the payment of directors' fees of the registered corporation or of a subsidiary of the registered corporation if the fees have been approved by the shareholders of the registered corporation.

Permitted transactions, board approval

**142.**—(1) Subject to the prior approval of the board of directors of the registered corporation, a registered corporation or a subsidiary of a registered corporation may,

(a) make a loan to any director, officer or employee of the corporation, the spouse or any child of a director or officer of the corporation or any relative of a director or officer of the corporation or of the spouse of a director or officer of the corporation on the security of the residence of the person to whom the loan is made if,

(i) the loan qualifies as an investment under clause 162 (1) (a),

(ii) the amount of the loan does not exceed 0.5 per cent of the capital base of the corporation, and

(iii) in the case of a director who is not an employee or officer of the corporation or his or her spouse or child, the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;

(b) make a personal loan to any officer or employee of the corporation, the spouse or any child of an officer of the corporation or any relative of an officer of the corporation or of the spouse of an officer of the corporation, if the loan qualifies as an investment under clause 162 (2) (b);

(c) enter into written contracts with any restricted party for the provision of management services to or by the corporation or subsidiary if it is reasonable that the corporation or the subsidiary obtain or supply the services, and so long as,

au moyen d'achats des biens immeubles qui, au cours de la période de trente-six mois qui a précédé toute avance faite par la compagnie ou sa filiale, étaient la propriété de l'administrateur, de son conjoint, de l'un de ses enfants, ou d'un parent de l'administrateur ou de son conjoint qui habitent avec l'administrateur, ni au moyen de prêts garantis par des sûretés sur de tels biens.

(3) La présente partie n'a pas pour effet d'empêcher l'attribution aux administrateurs de la compagnie inscrite ou de sa filiale des jetons de présence approuvés par les actionnaires de la compagnie inscrite.

Exception

**142** (1) Sous réserve de l'approbation préalable du conseil d'administration de la compagnie inscrite, celle-ci ou sa filiale peut :

Opérations permises, approbation du conseil d'administration

- a) consentir un prêt, garanti par une sûreté sur l'immeuble qu'habite l'emprunteur, à l'administrateur, au dirigeant ou à l'employé de la compagnie, au conjoint ou à l'enfant de l'administrateur ou du dirigeant de la compagnie, ou au parent de l'administrateur ou du dirigeant de la compagnie, ou du conjoint de ces derniers, pourvu que les conditions suivantes soient remplies :

(i) le prêt est un placement admissible aux termes de l'alinéa 162 (1) a),

(ii) le montant du prêt ne dépasse pas 0,5 pour cent de l'apport en capital de la compagnie,

(iii) les conditions de prêt offertes par celle-ci à l'administrateur qui n'est ni son employé ou son dirigeant, ni le conjoint ou l'enfant de ces derniers, ne sont pas moins onéreuses que les conditions qu'elle pose dans le cours normal de ses affaires;

- b) consentir un prêt personnel au dirigeant ou à l'employé de la compagnie, au conjoint ou à l'enfant d'un dirigeant, ou au parent d'un dirigeant ou du conjoint de ce dernier, pourvu que le prêt soit un placement admissible aux termes de l'alinéa 162 (2) b);

- c) conclure avec une personne assujettie à des restrictions un contrat par écrit ayant pour objet la prestation de services de gestion par la compagnie ou sa filiale ou pour leur compte, s'il est raisonnable que la compagnie ou sa filiale fournisse ou obtienne ces services, à condition que :

- (i) the consideration is at or exceeds competitive and fair rates where the services are provided by the corporation or the subsidiary and is otherwise reasonable for the services provided, and
  - (ii) the consideration does not exceed competitive and fair rates where the services are provided to the corporation or the subsidiary and is otherwise not unreasonable for the services provided;
- (d) enter into a written lease of real estate or personal property with any restricted party for the use of the corporation or the subsidiary in carrying out its business, so long as,
  - (i) the rent does not exceed fair rental value,
  - (ii) the term of the lease and all renewals does not exceed ten years, and
  - (iii) the terms of the lease are otherwise competitive and not unreasonable;
- (e) enter into written contracts with any restricted party for pension and benefit plans and other reasonable commitments incidental to the employment of officers and employees of the corporation or the subsidiary;
- (f) enter into employment contracts with officers or future officers of the corporation or the subsidiary;
- (g) enter into written contracts with any restricted party for the purchase of goods or services, other than management services, used or required by the corporation or the subsidiary in carrying on its business, so long as the price paid for such goods or services is competitive and at market value or fair rates, supported by appropriate documentation of such value or rates; and
- (h) enter into such investments or other transactions as may be prescribed.



- (i) d'une part, la contrepartie reçue en retour des services dispensés par la compagnie ou sa filiale soit égale ou supérieure aux tarifs normaux et concurrentiels et s'avère raisonnable compte tenu des services offerts,
  - (ii) d'autre part, la contrepartie versée en retour des services dispensés à la compagnie ou à sa filiale ne soit pas supérieure aux tarifs normaux et concurrentiels et ne s'avère pas excessive, compte tenu des services offerts;
- d) conclure par écrit avec une personne assujettie à des restrictions des baux mobiliers ou immobiliers portant sur des biens destinés à servir à la compagnie ou à sa filiale aux fins de leurs activités commerciales, pourvu que les conditions suivantes soient réunies :
- (i) le montant du loyer ne dépasse pas la valeur locative normale,
  - (ii) la durée du bail et de ses reconductions ne dépasse pas dix ans,
  - (iii) les conditions du bail sont concurrentielles et relativement raisonnables;
- e) conclure par écrit avec une personne assujettie à des restrictions des contrats écrits relatifs à des régimes de retraite et d'avantages sociaux et aux autres engagements normaux reliés à l'acquisition des services de ses dirigeants et employés ainsi que de ceux de sa filiale;
- f) conclure avec ses dirigeants actuels ou futurs ou ceux de sa filiale des contrats d'acquisition de leurs services;
- g) conclure avec une personne assujettie à des restrictions des contrats écrits d'acquisition de biens ou de services nécessaires à la compagnie ou à sa filiale dans le cadre de l'exercice de ses activités commerciales, à l'exclusion de services de gestion. Le prix versé en contrepartie doit toutefois être concurrentiel et représenter le prix du marché ou la juste valeur, chiffres à l'appui;
- h) souscrire à des placements et autres opérations qui sont prescrits.



Loans to  
employees,  
board  
approval not  
required

(2) Notwithstanding clause (1) (a) or (b), if permitted by the regulations, a registered corporation may make a loan to an employee of the corporation who is not a director or officer of the corporation or to his or her spouse or child without obtaining the approval of the board of directors if the amount of the loan does not exceed such amount as may be prescribed and there is compliance with subclauses (1) (a) (i) and (ii) or clause (1) (b), as the case may be.

Other  
permitted  
transactions,  
board  
approval  
not required

(3) A registered corporation or a subsidiary of a registered corporation, without the approval of the board of directors of the registered corporation, may enter into,

- (a) employment contracts with persons who are not directors or officers of the corporation or the subsidiary;
- (b) transactions with a restricted party which involve nominal or immaterial expenditures by the corporation or the subsidiary;
- (c) transactions with a restricted party for the sale of goods or the provision of services normally provided to the public by the corporation or the subsidiary in the ordinary course of business so long as the prices and rates charged by the corporation or subsidiary are competitive and at fair rates; and
- (d) such investments or other transactions as may be prescribed.

Approvals  
committee

(4) The board of directors of a registered corporation may delegate its power to approve transactions as required by this section to an approvals committee consisting of not fewer than five to be appointed from among their number, a majority of whom shall be outside directors.

Idem


(5) An approvals committee shall not approve a transaction unless at least five members, a majority of whom are outside directors, are present and voting.

Onus of  
proof

**143.** The onus is upon the restricted party and the registered corporation or its subsidiary to demonstrate,

- (a) for the purpose of subclause 142 (1) (a) (iii), that the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;



(2) Malgré les alinéas (1) a) ou b), si les règlements le permettent, la compagnie inscrite peut consentir un prêt à son employé qui n'est ni son administrateur, ni son dirigeant, ou au conjoint ou à l'enfant de cet employé, sans l'approbation du conseil d'administration, pourvu que le montant du prêt ne dépasse pas le montant prescrit et que les sous-alinéas (1) a) (i) et (ii) ou l'alinéa (1) b), selon le cas, soient respectés. 

Prêts aux employés sans l'approbation du conseil d'administration

(3) La compagnie inscrite ou sa filiale peuvent, sans l'approbation du conseil d'administration de la compagnie inscrite, être partie :

Autres opérations permises sans l'approbation du conseil d'administration

- a) à des contrats d'embauchage passés avec des personnes qui ne sont ni ses administrateurs, ni ses dirigeants ou ceux de sa filiale;
- b) avec une personne assujettie à des restrictions, à des opérations qui n'occasionnent à la compagnie ou à sa filiale que des frais minimes ou symboliques;
- c) avec une personne assujettie à des restrictions, à des opérations relatives à la vente de biens ou à la prestation de services normalement offerts au public par la compagnie ou sa filiale dans le cours normal de leurs affaires, pourvu que les prix et tarifs qu'elle exige en retour soient justes et concurrentiels;
- d) à des placements et autres opérations qui sont prescrits.



(4) Le conseil d'administration de la compagnie inscrite peut déléguer, à un comité d'approbation qui se compose d'au moins cinq administrateurs, son pouvoir d'approuver des opérations comme l'exige le présent article. La majorité des membres du comité est formée d'administrateurs externes.

Comité d'approbation

(5) Le comité d'approbation ne doit pas approuver une opération à moins que cinq membres, dont la majorité est formée d'administrateurs externes, ne soient présents et ne votent.

Idem

**143** Le fardeau de démontrer les faits suivants revient à la personne assujettie à des restrictions, ainsi qu'à la compagnie inscrite ou à sa filiale :

Fardeau de la preuve

- a) pour l'application du sous-alinéa 142 (1) a) (iii), que les conditions de prêt ne sont pas moins onéreuses que les conditions que pose la compagnie dans le cours normal de ses affaires;

- (b) for the purpose of clause 142 (1) (c), that it is reasonable that the services be obtained or supplied;
- (c) for the purpose of subclause 142 (1) (c) (i), that the consideration is at or exceeds competitive and fair rates;
- (d) for the purpose of subclause 142 (1) (c) (ii), that the consideration does not exceed competitive and fair rates;
- (e) for the purpose of clause 142 (1) (d), that the rent does not exceed fair rental value and the terms of the lease are otherwise competitive and not unreasonable;
- (f) for the purpose of clause 142 (1) (g), that the price paid is competitive and at market value or fair rates;
- (g) for the purpose of clause 142 (3) (b), that expenditures are nominal or immaterial; and
- (h) for the purpose of clause 142 (3) (c), that services are normally provided to the public in the ordinary course of business and that the prices and rates are competitive and at fair rates.

Trusts and  
estates

**144.**—(1) A registered trust corporation shall not participate in, or enter into, any investment or other transaction with its subsidiaries or restricted parties using funds, except deposits, held by the corporation as a fiduciary.

Idem

(2) Except as provided in this section, a registered trust corporation shall not invest funds held by the registered corporation as a fiduciary in securities of the corporation or its subsidiaries or restricted parties.

Exception

(3) A registered trust corporation may act as a fiduciary of one or more trusts or estates that owns securities of the corporation or its subsidiaries or restricted parties if the securities were acquired before the corporation assumed responsibility as a fiduciary.

- b) pour l'application de l'alinéa 142 (1) c), qu'il est raisonnable d'obtenir ou de fournir les services;
- c) pour l'application du sous-alinéa 142 (1) c) (i), que la contrepartie est égale ou supérieure aux tarifs normaux et concurrentiels;
- d) pour l'application du sous-alinéa 142 (1) c) (ii), que la contrepartie n'est pas supérieure aux tarifs normaux et concurrentiels;
- e) pour l'application de l'alinéa 142 (1) d), que le montant du loyer ne dépasse pas la valeur locative normale et que les conditions du bail sont concurrentielles et relativement raisonnables;
- f) pour l'application de l'alinéa 142 (1) g), que le prix est concurrentiel et représente le prix du marché ou la juste valeur;
- g) pour l'application de l'alinéa 142 (3) b), que des frais sont minimales ou symboliques;
- h) pour l'application de l'alinéa 142 (3) c), que des services sont normalement offerts au public dans le cours normal des affaires et que les prix et tarifs sont justes et concurrentiels.

**144** (1) La compagnie de fiducie inscrite ne doit souscrire ni participer à aucun placement ou autre opération, avec sa filiale ou avec une personne assujettie à des restrictions à son égard, en utilisant les fonds qu'elle détient à titre de fiduciaire, sauf ceux détenus à titre de dépôts.

Fiducies et successions

(2) Sauf disposition contraire du présent article, la compagnie de fiducie inscrite ne doit pas investir dans ses propres valeurs mobilières ou dans celles de ses filiales ou de personnes assujetties à des restrictions à son égard les fonds qu'elle détient à titre de fiduciaire.

Idem

(3) La compagnie de fiducie inscrite peut représenter plusieurs fiducies ou successions qui sont titulaires de valeurs mobilières de la compagnie, de ses filiales ou de personnes assujetties à des restrictions à son égard, si l'acquisition de ces valeurs mobilières a eu lieu avant que la compagnie n'ait assumé son rôle de fiduciaire.

Exception

Approval of  
board

(4) Where a registered trust corporation acts as a fiduciary of one or more trusts or estates holding securities of the corporation, the securities shall not be sold or voted or an offer for the securities refused except with the approval of the board of directors and the reasons for such actions shall be entered in the minutes of the board of directors.

Annual  
report

(5) Each year, the board of directors shall approve a report on the securities of the registered corporation and its subsidiaries and restricted parties held by the corporation as fiduciary and the reasons for their retention or sale.

Limitation


(6) Nothing in this section authorizes a registered trust corporation to perform any act as a fiduciary which is otherwise prohibited.

Saving

(7) Nothing in this section prevents a registered trust corporation from,

(a) fulfilling a specific direction or permission of a court or of an instrument creating a fiduciary duty that the corporation should or may purchase or sell securities of the corporation or its subsidiaries or restricted parties or participate in, or enter into, any investment or other transaction with its subsidiaries or restricted parties but a general power to invest in the discretion of the fiduciary shall not be considered to be a specific direction or permission for the purposes of this clause;

(b) investing funds held by it as a fiduciary in the securities of its restricted parties for which there is a published market, as defined in section 88 of the *Securities Act*;

(c) participating in or entering into an investment that a co-fiduciary or the co-fiduciaries of the corporation can direct to be made without the agreement of the corporation and that the co-fiduciary or co-fiduciaries have directed to be made. 

R.S.O. 1980,  
c. 466

Exemption

**145.**—(1) Upon the application of a registered corporation filed with the Superintendent, the Lieutenant Governor in Council may consent to the registered corporation making or entering into any investment or other transaction set out in this Part, with a restricted party if, in the opinion of the Lieutenant Governor in Council, the consent is necessary to the



(4) Si la compagnie de fiducie inscrite agit à titre de fiduciaire d'une ou de plusieurs fiducies ou successions qui détiennent des valeurs mobilières de la compagnie, les valeurs mobilières ne doivent pas être aliénées, sauf avec l'approbation du conseil d'administration. De même, il ne doit pas être refusé d'offre à leur sujet ni exercé le droit de vote qui s'y rattache, sauf avec cette approbation. Les motifs de ces mesures sont consignés aux procès-verbaux des réunions du conseil d'administration.

Approbation  
du conseil  
d'administra-  
tion

(5) Chaque année, le conseil d'administration donne son approbation à un rapport relatif aux valeurs mobilières de la compagnie inscrite, de ses filiales et de personnes assujetties à des restrictions à son égard, détenues en fiducie par la compagnie, ainsi qu'aux motifs qui l'ont déterminé à les conserver ou à les aliéner.

Rapport  
annuel

(6) Le présent article n'a pas pour effet de permettre à la compagnie de fiducie inscrite d'accomplir, à titre de représentant fiduciaire, un acte autrement prohibé.

Restriction

(7) Le présent article n'a pas pour objet d'empêcher une compagnie de fiducie inscrite :

Réserve

- a) de se conformer à une directive ou à une autorisation précise d'un tribunal ou d'un acte créant une obligation fiduciaire en vertu de laquelle celle-ci devrait ou pourrait acquérir ou aliéner ses valeurs mobilières ou celles de ses filiales ou de personnes assujetties à des restrictions à son égard, ou participer ou souscrire à un placement ou autre opération avec ses filiales ou avec des personnes assujetties à des restrictions à son égard; toutefois, le mandat général de placement confié au représentant fiduciaire ne s'interprète pas comme étant une directive ou une autorisation précise pour l'application du présent alinéa;
- b) d'investir les fonds qu'elle détient à titre de fiduciaire dans les valeurs mobilières de personnes assujetties à des restrictions à son égard, s'il existe pour ces valeurs un marché officiel au sens de l'article 88 de la *Loi sur les valeurs mobilières*;
- c) de participer ou de souscrire à un placement qu'un ou plusieurs cofiduciaires de la compagnie peuvent ordonner de faire sans l'accord de la compagnie et que ce ou ces cofiduciaires ont ordonné de faire.

L.R.O. 1980,  
chap. 466

**145** (1) À la demande de la compagnie inscrite déposée auprès du surintendant, le lieutenant-gouverneur en conseil peut consentir à ce qu'elle effectue un placement ou une autre

Dispense



well-being of the registered corporation and the consent may be subject to such terms and conditions as are set out in the consent.

Idem

(2) Subsection (1) does not apply so as to permit the giving of consent for an investment or other transaction that is prohibited by section 144.

Disclosure of interest

**146.**—(1) A restricted party who is a party to an investment or other transaction with a registered corporation or a subsidiary of a registered corporation or to a proposed investment or other transaction with the corporation or the subsidiary for which the approval of the board of directors of the corporation is required, whether under this Act or otherwise, shall disclose in writing to the corporation the nature of the restricted party's interest.

Disclosure of cross-directorship

(2) A director or officer of a registered corporation, with respect to an investment or other transaction with the corporation or a subsidiary of the corporation or with respect to a proposed investment or other transaction with the corporation or the subsidiary, shall disclose the nature of the interest if,

- (a) he or she is a director or an officer of a body corporate that is a party to any investment or other transaction of the corporation or the subsidiary or a proposed investment or other transaction of the corporation or subsidiary; or
- (b) he or she holds 10 per cent or more of the shares of a body corporate described in clause (a).

Disclosure by director

(3) The disclosure required by subsection (1) or (2) shall be entered in the minutes of the board of directors and shall be made, in the case of a director,

- (a) at the meeting at which a proposed investment or other transaction is first considered;
- (b) if the director was not then interested in a proposed investment or other transaction, at the first meeting after becoming interested;
- (c) if the director becomes interested after an investment or other transaction is entered into, at the first meeting after becoming interested; or
- (d) if a person who is interested in an investment or other transaction later becomes a director, at the first meeting after becoming a director.

opération avec une personne assujettie à des restrictions visés à la présente partie, si de son avis ce consentement est nécessaire à la bonne marche de la compagnie inscrite. Le consentement peut être assorti de conditions qui y sont énoncées.

(2) Le paragraphe (1) n'a pas pour effet de permettre qu'il soit consenti à un placement ou à une autre opération qui sont prohibés par l'article 144. Idem

**146** (1) Doit divulguer par écrit à la compagnie la nature de son intérêt, la personne assujettie à des restrictions partie à un placement ou à une autre opération avec la compagnie inscrite ou sa filiale, ou à un projet de placement ou d'autre opération avec ces dernières qui exigent l'approbation préalable du conseil d'administration, soit aux termes de la présente loi, soit autrement. Divulgateur  
d'intérêt

(2) L'administrateur ou le dirigeant d'une compagnie inscrite divulgue la nature de son intérêt à l'égard d'un placement ou d'une autre opération avec la compagnie ou sa filiale ou d'un projet de placement ou d'autre opération avec ces dernières, dans les cas suivants : Administrateur de  
plusieurs  
compagnies

- a) lorsqu'il est administrateur ou dirigeant d'une personne morale partie au placement ou à l'autre opération ou au projet de placement ou d'autre opération;
- b) lorsqu'il détient 10 pour cent ou plus des actions de la personne morale visée à l'alinéa a).

(3) La divulgation exigée par les paragraphes (1) ou (2) est consignée au procès-verbal des réunions du conseil d'administration. Elle se fait, dans le cas d'un administrateur, lors de la première réunion : Divulgateur  
par l'administrateur

- a) au cours de laquelle le projet de placement ou d'autre opération est étudiée;
- b) qui suit l'acquisition par l'administrateur d'un intérêt, inexistant jusqu'alors, dans le projet de placement ou d'autre opération;
- c) qui suit l'acquisition par celui-ci d'un intérêt dans un placement ou une autre opération déjà en cours;
- d) qui suit sa nomination au poste d'administrateur alors que celui-ci possède déjà un intérêt dans un placement ou une autre opération.

Disclosure  
by others

(4) The disclosure required by subsection (1) or (2) shall be made, in the case of a restricted party who is not a director,

- (a) forthwith after becoming aware that the investment or other transaction or proposed investment or other transaction is to be considered or has been considered at a meeting of directors;
- (b) if the restricted party becomes interested after an investment or other transaction is entered into, forthwith after becoming interested; or
- (c) if a person who is interested in an investment or other transaction later becomes a restricted party, forthwith after becoming a restricted party.

Director not  
to vote

(5) A director required by subsection (1) or (2) to make a disclosure shall not take part in the discussion or vote on any resolution to approve an investment or transaction in relation to which disclosure is required under subsection (1) or (2) and the director shall not be present at any meeting of the board while it is dealing with the matter.

Director  
not to use  
influence

(6) A director referred to in subsection (5) shall not attempt in any way to influence the voting on any resolution to approve an investment or other transaction.

Procedures

**147.**—(1) Every registered corporation shall establish and its board of directors shall approve written review and approval procedures to be followed by the corporation to ensure compliance with this Part, and the board of directors shall review the procedures so established at least once each year.

Idem

(2) The procedures referred to in subsection (1) shall be developed by the investment committee of the board of directors and shall be reviewed at least twice each year by the investment committee.

Voidable  
contract

**148.** Where a restricted party, a registered corporation or any subsidiary of a registered corporation fails to comply with this Part, and where an investment or other transaction which is prohibited by this Part takes place, the corporation or the Superintendent may apply to the High Court of Justice for an order setting aside the investment or other transaction and directing that the restricted party account to the registered corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit, including an order for compensation for the

(4) La personne assujettie à des restrictions qui n'est pas administrateur fait sans délai la divulgation exigée par les paragraphes (1) ou (2) :

Divulgation  
par d'autres

- a) quand elle apprend que le placement ou l'autre opération ou le projet de placement ou d'autre opération a été ou sera examiné lors d'une réunion des administrateurs;
- b) quand elle acquiert un intérêt dans un placement ou une autre opération déjà en cours;
- c) quand elle devient une personne assujettie à des restrictions lorsqu'elle possède déjà un intérêt dans un placement ou une autre opération.

(5) L'administrateur tenu à la divulgation aux termes des paragraphes (1) ou (2) ne doit pas participer aux discussions ou au vote sur la résolution présentée pour faire approuver le placement ou l'opération qui en font l'objet. Il ne doit pas non plus assister à la réunion du conseil d'administration pendant qu'il est traité de la question.

L'administra-  
teur ne vote  
pas

(6) L'administrateur visé au paragraphe (5) ne doit d'aucune façon tenter d'influencer le vote sur la résolution présentée pour faire approuver un placement ou une autre opération.

L'administra-  
teur ne peut  
user  
d'influence

**147** (1) Afin de se conformer à la présente partie, la compagnie inscrite établit et observe une procédure écrite d'examen et d'approbation, que son conseil d'administration approuve. Le conseil d'administration réexamine cette procédure au moins une fois l'an.

Procédure

(2) Le comité de placements du conseil d'administration élabore la procédure visée au paragraphe (1) et la réexamine au moins deux fois l'an.

Idem

**148** La compagnie ou le surintendant peut, par voie de requête, demander à la Haute Cour de justice de rendre une ordonnance annulant le placement ou l'autre opération effectués, contrairement à la présente partie, par la personne assujettie à des restrictions, la compagnie inscrite ou sa filiale, et enjoignant à la personne assujettie à des restrictions de rendre compte à la compagnie inscrite de tout bénéfice qu'elle en a tiré. Le tribunal peut rendre cette ordonnance ou toute autre ordonnance qu'il juge pertinente, notamment une ordonnance portant sur le versement d'une indemnité pour la perte et les dommages subis par la compagnie, ainsi que le versement de

Contrat sus-  
ceptible  
d'annulation

loss or damage suffered by the corporation and punitive or exemplary damages from the restricted party.

Derivative  
action

**149.**—(1) Where an investment or other transaction that is prohibited under this Part takes place, a registered corporation or the Superintendent may apply to the High Court of Justice for an order that each person who participated in or facilitated such investment or other transaction made in contravention of this Part pay to the corporation on a joint and several basis,

- (a) the damages suffered;
- (b) the face value of the investment; or
- (c) the amount expended by the corporation in the transaction.

Saving

(2) Subsection (1) does not apply to a person who is not a director, unless the person knew or ought reasonably to have known that the investment or other transaction was made in contravention of this Part.

Reporting by  
auditor

**150.** An auditor shall promptly report to the board of directors and the Superintendent any breach of any provision of this Part of which he or she is aware or of which he or she is made aware under section 151 and, if the board of directors does not act to rectify the breach within a reasonable period of time, the auditor shall promptly report the failure to rectify to the Superintendent.

Reporting by  
others

**151.**—(1) Any person undertaking professional services for a registered corporation who, in providing the professional services, becomes aware of a breach of the provisions of this Part shall promptly report the breach to the board of directors and the auditor of the corporation unless he or she has already reported the breach under section 150.

Professional  
advice

(2) No person undertaking professional services for a registered corporation shall advise the registered corporation or perform services for the corporation in an investment or other transaction in or to which the person is a party or has a direct or indirect beneficial interest in the subject-matter of the investment or transaction.

Solicitor-  
client  
privilege

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.



dommages-intérêts punitifs ou exemplaires par la personne assujettie à des restrictions.

**149** (1) La compagnie inscrite ou le surintendant peut, par voie de requête, demander à la Haute Cour de justice une ordonnance portant que chacune des personnes qui a souscrit au placement ou à l'autre opération effectués contrairement à la présente partie ou qui en a facilité la réalisation verse à la compagnie, à titre solidaire, l'une des sommes suivantes :

Action  
oblique

- a) le montant des dommages subis;
- b) la valeur nominale du placement;
- c) la somme versée par la compagnie en vue de l'opération.

(2) Le paragraphe (1) ne s'applique pas à la personne qui n'est pas administrateur, sauf si celle-ci savait ou aurait normalement dû savoir que le placement ou l'autre opération étaient effectués contrairement à la présente partie.

Exception

**150** Le vérificateur signale promptement au conseil d'administration et au surintendant toute contravention à une disposition de la présente partie dont il a connaissance ou qui est portée à sa connaissance aux termes de l'article 151. Advenant le défaut du conseil d'administration de corriger la situation dans un délai raisonnable, le vérificateur fait promptement part au surintendant de ce défaut.

Rapport par  
le vérificateur

**151** (1) La personne qui, dans le cadre des services professionnels qu'elle fournit à la compagnie inscrite, prend connaissance d'une contravention à la présente partie, la signale promptement au conseil d'administration ainsi qu'au vérificateur de la compagnie, à moins qu'elle ne l'ait déjà signalée aux termes de l'article 150.

Rapport par  
d'autres

(2) La personne qui fournit des services professionnels à la compagnie inscrite s'abstient de dispenser à cette dernière des conseils ou services ayant trait à un placement ou à une autre opération auquel elle est elle-même partie ou sur l'objet duquel elle a un droit à titre de bénéficiaire, soit directement, soit indirectement.

Conseils  
d'ordre  
professionnel

(3) Le présent article ne porte pas atteinte au secret professionnel qui lie l'avocat à son client.

Secret profes-  
sionnel de  
l'avocat



No liability

**152.** A person who in good faith makes a report under subsection 151 (1) shall not be liable in any civil action arising therefrom.

## PART X

### BUSINESS AND INVESTMENTS

Application  
of ss. 154-172

**153.** Sections 154 to 172 do not apply to funds, except deposits, held by a registered corporation as a fiduciary.

Prudent  
investment  
standards

**154.**—(1) Every registered corporation shall adhere to prudent investment standards in making investment decisions and in managing its total investments.

Idem

(2) For the purposes of this Act, prudent investment standards are those which, in the overall context of an investment portfolio, a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments, without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

Procedures

(3) Every registered corporation shall establish written procedures to ensure that prudent investment standards are applied by the corporation in making investment decisions and in managing the total investments of the corporation.

Development  
of  
procedures

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least twice each year by the investment committee.

Idem

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

Approval by  
board

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary.

Deposits,  
loan  
corporations

**155.**—(1) A registered provincial loan corporation and any other registered loan corporation that has capacity to do so may, in a debtor and creditor relationship for the purposes of investment, receive money,

(a) repayable on demand or after notice; or

**152** La personne qui de bonne foi signale une contravention aux termes du paragraphe 151 (1) ne peut pas être tenue responsable dans toute instance civile qui en résulte.

Absence de responsabilité

## PARTIE X

### ~ ACTIVITÉS COMMERCIALES ET PLACEMENTS

**153** Les articles 154 à 172 ne s'appliquent pas aux fonds qu'une compagnie inscrite détient à titre fiduciaire, à l'exception des dépôts.

Champ d'application des articles 154 à 172

**154** (1) Dans ses décisions quant aux placements et dans la gestion de l'ensemble de ses placements, la compagnie inscrite observe des normes de placements sûrs.

Normes de placements sûrs

(2) Pour l'application de la présente loi, les normes de placements sûrs sont celles qu'observerait en ce qui concerne le portefeuille pris dans son ensemble, la personne normalement prudente en faisant des placements pour le compte d'un mandant avec lequel elle entretiendrait un rapport fiduciaire à des fins de placements, qui ne comporteraient pas de risques indus de perte ou de dévaluation et qui donneraient la perspective raisonnable d'un rendement acceptable ou d'une hausse de valeur.

Idem

(3) La compagnie inscrite établit une procédure écrite qui assure la mise en application de normes de placements sûrs dans ses décisions quant aux placements et dans la gestion de l'ensemble de ses placements.

Procédure

(4) Le comité de placements du conseil d'administration de la compagnie élabore la procédure visée au paragraphe (3) et la réexamine au moins deux fois l'an.

Élaboration de la procédure

(5) Le comité de placements présente au conseil d'administration un rapport concernant le réexamen visé au paragraphe (4) et lui fait ses recommandations, le cas échéant, relativement à la procédure visée au paragraphe (3).

Idem

(6) La procédure visée au paragraphe (3) est subordonnée à l'approbation du conseil d'administration. Ce dernier, sur une recommandation du comité de placements, réexamine la procédure et y apporte les modifications qui s'imposent.

Approbation du conseil d'administration

**155** (1) La compagnie de prêt provinciale inscrite et toute autre compagnie de prêt inscrite qui a capacité à cette fin peuvent, dans le cadre d'un rapport de créancier à débiteur, existant à des fins de placement, recevoir des sommes d'argent :

Dépôts, compagnies de prêt

- a) remboursables sur demande ou sur préavis;

(b) repayable upon the expiry of a fixed term,

and the corporation may issue debentures or other evidences of indebtedness in respect thereof, appropriate to the debtor and creditor relationship created thereby.

Deposits,  
trust  
corporations

(2) A registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, for the purpose of investment, receive money,

(a) repayable upon demand or after notice; or

(b) repayable upon the expiry of a fixed term,

and the corporation may issue investment certificates or other evidences of the money received, appropriate to the trust relationship created thereby.

Idem

(3) Money received by a trust corporation under subsection (2) shall be deemed to be held by it in trust for its depositors and it shall be deemed to guarantee the repayment thereof.

Idem

(4) Notwithstanding subsection (3), a trust corporation may retain the interest and profit resulting from the investment of money received by it under subsection (2) in excess of the amount of interest payable to its depositors in respect thereof.

Idem

(5) Every trust corporation receiving money as authorized by subsection (2) shall earmark and set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof and, for the purposes of this subsection, "cash" includes moneys on deposit and "securities" includes investments authorized under sections 162 to 166 and 170.

Idem

(6) An investment certificate or other evidence of money received issued by a trust corporation shall indicate in a clearly visible manner that it is guaranteed only as against the assets of the corporation earmarked and set aside under subsection (5).

Deposit  
insurance

**156.**—(1) No registered corporation shall exercise the powers mentioned in section 155 unless it is a member of the Canada Deposit Insurance Corporation or its deposits are insured by some other public agency approved by the Superintendent to the maximum amounts permitted by the agency.

Idem

(2) A provincial corporation, with the approval of the Superintendent, may borrow money from the Canada Deposit Insurance Corporation or other similar public agencies

- b) remboursables à échéance.

La compagnie peut aussi émettre des débentures ou autres titres de créance appropriés au rapport de créancier à débiteur qui les lie en l'espèce.

(2) La compagnie de fiducie provinciale inscrite et toute autre compagnie de fiducie inscrite qui a capacité à cette fin peuvent, à des fins de placement, recevoir des sommes d'argent :

Dépôts, com-  
pagnies de  
fiducie

- a) remboursables sur demande ou sur préavis;
- b) remboursables à échéance.

La compagnie peut aussi émettre des certificats de placement ou autres attestations des sommes ainsi reçues et qui sont appropriés au rapport fiduciaire qui les lie en l'espèce.

(3) Les sommes d'argent reçues par une compagnie de fiducie en vertu du paragraphe (2) sont réputées détenues en fiducie pour le compte des déposants et la compagnie est réputée garantir leur remboursement.

Idem

(4) Malgré le paragraphe (3), la compagnie de fiducie peut toucher la partie des intérêts et revenus tirés du placement des sommes d'argent reçues en vertu du paragraphe (2) qui excède les intérêts payables aux déposants à l'égard de ces sommes.

Idem

(5) La compagnie de fiducie qui reçoit des sommes d'argent en vertu du paragraphe (2) met à part soit des valeurs mobilières, soit de la monnaie et des valeurs mobilières, d'un montant égal au total des sommes reçues. Pour l'application du présent paragraphe, «monnaie» s'entend en outre des sommes d'argent confiées à titre de dépôt et «valeurs mobilières» s'entend également des placements autorisés par les articles 162 à 166 et en vertu de l'article 170.

Idem

(6) Le certificat de placement ou l'autre attestation des sommes reçues délivrés par la compagnie de fiducie indiquent clairement qu'ils sont garantis par les seuls biens de la compagnie mis à part aux termes du paragraphe (5).

Idem

**156** (1) Nulle compagnie inscrite ne doit exercer les pouvoirs visés à l'article 155, sauf si elle est membre de la Société d'assurance-dépôts du Canada ou que ses dépôts sont assurés, par un autre organisme gouvernemental approuvé par le surintendant, jusqu'aux montants maximaux permis par cet organisme.

Assurance-  
dépôt

(2) La compagnie provinciale peut, avec l'approbation du surintendant, contracter des emprunts auprès de la Société

Idem



approved by the Superintendent and, for such purposes, the corporation may mortgage thereto the cash and securities earmarked and set aside under section 155.

Borrowing  
multiples,  
limits

**157.**—(1) Subject to subsections (2), (3) and (4), the total amount,

- (a) received as deposits and otherwise borrowed by a registered loan corporation; and
- (b) received as deposits and borrowed by a registered trust corporation,

shall not exceed, at any time, an amount equal to ten times its capital base.

Exclusions  
from  
calculation

(2) Amounts borrowed by a registered corporation by way of subordinated notes and by way of mortgages on real estate owned by the corporation shall not be included in a determination of a total amount under subsection (1).

Increase in  
borrowing  
multiple

(3) On the application of a registered corporation, the Superintendent, by order and subject to such terms and conditions as may be set out in the order, may increase the total amount that may be borrowed or received by the corporation to an amount equal to such multiplier in excess of ten times but not exceeding twenty-five times its capital base as may be set out in the order and subsections (1) and (2) shall be deemed to apply to such increased amount, substituting the new multiplier for “ten” in subsection (1).

Borrowing  
over limit

(4) A registered corporation may exceed, at any time, the limit on its borrowing multiple as set out in subsection (1) or as set out in an order under subsection (3) if the board of directors has approved, by a resolution passed on an annual basis, the exceeding of the limit and so long as the amount by which the limit is exceeded is invested in a manner prescribed by the regulations.

Copy of  
special  
resolution

(5) No order shall be made under subsection (3) unless the application of the corporation is accompanied by a certified copy of a special resolution of the corporation supporting the increase requested under subsection (3).

Duty of  
Superin-  
tendent

(6) At least once each year, the Superintendent shall review the borrowing multiple authorized for each corporation to determine if the borrowing multiple is appropriate.

d'assurance-dépôts du Canada ou d'un autre organisme gouvernemental semblable approuvé par le surintendant. La compagnie peut à cette fin grever d'une hypothèque mobilière la monnaie et les valeurs mobilières mises à part aux termes de l'article 155.

**157**-(1) Sous réserve des paragraphes (2), (3) et (4), la somme totale :

Limitation  
des multipli-  
cateurs  
d'emprunts

- a) reçue à titre de dépôts et autrement empruntée par la compagnie de prêt inscrite;
- b) reçue à titre de dépôts et empruntée par la compagnie de fiducie inscrite,

ne doit jamais excéder un montant égal à dix fois l'apport en capital de cette compagnie.

(2) Sont exclues de la somme totale visée au paragraphe (1) les sommes empruntées par la compagnie inscrite par voie d'émission de titres subalternes et par voie d'hypothèques grevant ses propres biens immobiliers.

Montants à  
exclure

(3) À la requête d'une compagnie inscrite, le surintendant peut, par ordonnance et sous réserve des conditions qu'il y fixe, porter la somme totale que la compagnie peut emprunter ou recevoir à une somme précisée dans l'ordonnance et qui excède dix fois, mais n'excède pas vingt-cinq fois, son apport en capital. Les paragraphes (1) et (2) s'appliquent à cette somme majorée, le nouveau multiplicateur étant substitué au mot «dix» au paragraphe (1).

Majoration  
du multiplia-  
teur  
d'emprunts

(4) La compagnie inscrite peut dépasser la limite du multiplicateur d'emprunt énoncée au paragraphe (1) ou fixée dans l'ordonnance prise en vertu du paragraphe (3), si le conseil d'administration a approuvé cette mesure au moyen d'une résolution, valable pour une période d'un an. L'excédent doit toutefois faire l'objet d'un placement selon le mode prescrit aux règlements.

Emprunt au-  
delà de la  
limite permise

(5) Il ne doit pas être rendu d'ordonnance en vertu du paragraphe (3) que si la requête de la compagnie est accompagnée d'une copie certifiée conforme d'une résolution spéciale adoptée à l'appui de la majoration demandée aux termes de ce paragraphe.

Copie de la  
résolution  
spéciale

(6) Au moins une fois l'an, le multiplicateur d'emprunt autorisé pour chaque compagnie fait l'objet d'un réexamen de la part du surintendant, qui en vérifie la justesse.

Obligation du  
surintendant



Subordinated  
notes

**158.**—(1) A registered corporation may borrow money by way of the issue of notes having a denomination of at least \$100,000.

Idem

(2) A note issued under this section shall be known as a subordinated note and the following provisions apply to every such note:

1. A subordinated note is not a deposit of the issuing corporation and is not insured by the Canada Deposit Insurance Corporation or any similar public agency.
2. In the event of the insolvency or winding up of the corporation, the indebtedness evidenced by each subordinated note ranks equally with the indebtedness evidenced by all other subordinated notes of the corporation and is subordinated in right of payment to all other indebtedness of the corporation.
3. Every subordinated note shall be evidenced by a certificate in a form approved for the corporation by the Superintendent and containing a statement of the terms set out in paragraphs 1 and 2 and such other information as the Superintendent, in approving the form, may require.
4. A subordinated note shall not be issued by a registered corporation except on application to its secretary.

Idem

(3) No registered corporation or person acting on its behalf, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation, shall refer to the note otherwise than as a subordinated note and the registered corporation or person, as the case may be, shall indicate clearly therein that the subordinated note is not a deposit that is insured by the Canada Deposit Insurance Corporation or other similar public agency.

Idem

(4) A registered corporation shall not issue a subordinated note if, after the issue of the note, the amount of the outstanding subordinate notes of the corporation would exceed the amount obtained by subtracting its outstanding subordinated notes and the subordinate note or notes it proposes to issue from its capital base.

Pledging for  
liquidity  
reasons

**159.**—(1) A registered corporation may pledge any of its own assets as security for a debt obligation of the corporation

**158** (1) La compagnie inscrite peut emprunter des sommes d'argent par voie d'émission de titres d'une valeur minimale de 100 000 \$.

Titres  
subalternes

(2) Le titre émis en vertu du présent article porte l'appellation de «titre subalterne» et les dispositions suivantes s'y appliquent :

Idem

1. Celui-ci ne constitue pas un dépôt de la compagnie émettrice et ne fait l'objet d'aucune protection d'assurance de la Société d'assurance-dépôts du Canada ou d'un organisme gouvernemental semblable.
2. Dans le cas d'insolvabilité ou de liquidation de la compagnie, toutes les créances attestées par des titres subalternes viennent au même rang et, dans l'ordre de collocation, prennent rang après toutes les autres dettes de la compagnie.
3. Le titre subalterne est attesté par un certificat rédigé dans la forme approuvée pour la compagnie par le surintendant. Les conditions qui figurent aux dispositions 1 et 2 y sont énoncées ainsi que les autres renseignements que le surintendant peut exiger avant d'approuver la forme.
4. La compagnie inscrite ne peut émettre de titre subalterne qu'à la suite d'une demande déposée auprès de son secrétaire.

(3) Dans toute circulaire d'offre, annonce publicitaire, correspondance ou documentation se rapportant à un titre subalterne émis ou à émettre par la compagnie, la compagnie inscrite ou la personne qui agit pour son compte ne doit pas faire mention du titre subalterne autrement que sous cette appellation. La compagnie ou la personne y indiquent clairement que le titre subalterne ne constitue pas un dépôt faisant l'objet de la protection d'assurance de la Société d'assurance-dépôts du Canada ou d'un autre organisme gouvernemental semblable.

Idem

(4) La compagnie inscrite ne doit pas émettre de titres subalternes si, à la suite de cette émission, la somme totale de ses titres subalternes en circulation dépasserait le résultat obtenu en soustrayant du montant de son apport en capital, la somme des titres subalternes déjà en circulation et du ou des titres subalternes dont elle projette l'émission.

Idem

**159** (1) La compagnie inscrite peut nantir ses propres biens pour garantir un titre de créance, si le titre est émis relativement à un emprunt fait afin de combler les besoins de

Nantissement  
à des fins de  
liquidité

if the debt obligation is issued in respect of money borrowed to enable the corporation to meet short term requirements for liquid funds arising from its operations and if the total debt obligation of the corporation in relation to which assets are so pledged does not exceed 50 per cent of the capital base.

Exception

(2) Subsection (1) does not apply so as to prevent a pledge of assets to the Government of Canada with respect to the sale of Canada Savings Bonds or such other transactions as may be named in the regulations.

Notice to  
Superin-  
tendent

(3) A corporation pledging any asset under subsection (1) shall promptly notify the Superintendent in writing of the amount so secured.

Borrowing  
without  
security

(4) A registered trust corporation shall not borrow money, except from a bank or a registered corporation, unless,

(a) it is borrowing by way of subordinated notes; or

(b) it is borrowing as authorized by subsection (1).

Receiver  
prohibited

(5) Any agreement under which a creditor of a registered corporation is authorized by reason of the failure of the corporation to make payment in respect of a debt obligation to appoint a receiver or acquire control of the corporation or of any asset of the corporation, other than an asset pledged under subsection (1) or (2), is void.

Pledge to  
restricted  
party  
prohibited


(6) A registered corporation shall not pledge any of its assets to a restricted party of the corporation.

Liquidity

**160.** Every registered corporation, at all times, shall maintain liquid assets in such form and amounts and in such manner as is prescribed.



Restriction  
on investing  
and pledging  
total assets

**161.**—(1) Except as provided in this Act, no registered corporation shall directly or indirectly invest or pledge any part of its total assets. 

Shares of  
financial  
institution

(2) No registered corporation shall purchase directly or indirectly,

(a) shares or subordinated notes of any other corporation except under section 28 or clause 169 (1) (d) or (e); or



(b) shares of a bank for which there is no published market as defined in section 88 of the *Securities Act*.



liquidité à court terme qu'engendrent ses opérations et si la dette obligataire totale de la compagnie à l'origine de ce nantissement n'est pas supérieure à 50 pour cent de l'apport en capital.

(2) Le paragraphe (1) n'a pas pour effet d'empêcher le nantissement de biens en faveur du gouvernement du Canada relativement à la vente d'obligations d'épargne du Canada ou à d'autres opérations mentionnées aux règlements.

Exception

(3) La compagnie qui effectue le nantissement d'un bien en vertu du paragraphe (1) communique immédiatement par écrit au surintendant le montant du nantissement.

Avis au surintendant

(4) La compagnie de fiducie inscrite ne doit pas emprunter de sommes d'argent, sauf d'une banque ou d'une compagnie inscrite, à moins d'effectuer l'emprunt :

Prêts non assortis d'une sûreté

a) par voie d'émission de titres subalternes;

b) selon le mode autorisé au paragraphe (1).

(5) Est nulle la convention aux termes de laquelle le créancier de la compagnie inscrite, suivant le défaut de celle-ci d'honorer une dette constatée par titre de créance, est autorisé à nommer un séquestre ou à effectuer la mainmise sur celle-ci ou sur ses biens, sauf le bien nanti en vertu des paragraphes (1) ou (2).

Nomination d'un séquestre interdite

(6) La compagnie inscrite ne doit nantir aucun de ses biens en faveur d'une personne assujettie à des restrictions à l'égard de la compagnie.

Nantissement interdit

**160** La compagnie inscrite maintient en tout temps des biens liquides sous la forme, de la valeur et de la manière prescrites.

Liquidité

**161** (1) La compagnie inscrite ne doit effectuer, directement ou indirectement, aucun placement ni nantissement d'un élément quelconque de son actif total, sauf en conformité avec la présente loi.

Restrictions au placement ou au nantissement des éléments de l'actif total

(2) La compagnie inscrite ne doit pas, directement ou indirectement, acquérir :

Actions d'institutions financières

a) les actions ou les titres subalternes d'une autre compagnie, sauf en vertu de l'article 28 ou des alinéas 169 (1) d) ou e);

b) des actions d'une banque pour lesquelles il n'existe pas de marché officiel au sens de l'article 88 de la *Loi sur les valeurs mobilières*.

L.R.O. 1980, chap. 466



Eligible  
investments

**162.**—(1) A registered corporation may invest by way of purchase of or loans on the security of,

mortgages

(a) mortgages upon improved real estate in Canada so long as the amount paid for or advanced on any mortgage, together with the amount of indebtedness under any mortgage, on the real estate ranking equally with or prior to the mortgage, in which the purchase or loan is made, does not exceed the lending value of the real estate to which the mortgage relates unless,

R.S.C. 1970,  
c. N-10

(i) the loan for which the mortgage is security is approved or insured under the *National Housing Act* (Canada), or

R.S.C. 1970,  
cc. I-15, I-16

(ii) the excess is guaranteed or insured through an agency of the Government of Canada or of a province or territory of Canada or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or similar legislation of any province or territory of Canada;

R.S.O. 1980,  
c. 218

debentures,  
bonds

(b) debentures, bonds or other evidences of indebtedness,

(i) of or guaranteed by the Government of Canada or of a province or territory of Canada,

(ii) of or guaranteed by a foreign country or state forming part of such foreign country where the interest on the debt obligations of such foreign country or state has been paid regularly when due for the previous ten years,

(iii) of any municipality in Canada or school board in Canada or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province or territory of Canada on property in such province or territory and collectable by or through the municipality or school board for the jurisdiction in which the property is situated,

**162** (1) La compagnie inscrite peut effectuer des placements au moyen de l'achat des biens suivants, ou au moyen de prêts garantis par ceux-ci :

Placements  
admissibles

- a) des hypothèques ou des prêts garantis au moyen  
– d'une hypothèque portant sur des biens immeubles améliorés situés au Canada, à condition que la somme payée en contrepartie ou avancée sur hypothèque, majorée du montant de la dette reliée à toute autre hypothèque de même rang ou qui prime l'hypothèque visée, ne dépasse pas la valeur hypothécable de l'immeuble grevé, sauf dans les cas suivants :

hypothèques

- (i) le prêt garanti par l'hypothèque est un prêt approuvé ou assuré aux termes de la *Loi nationale sur l'habitation* (Canada),
- (ii) l'excédent est garanti ou assuré par un organisme du gouvernement du Canada ou d'une province ou d'un territoire du Canada, ou en vertu d'une police d'assurance-hypothèque émise par une compagnie d'assurance titulaire d'un permis ou enregistrée en vertu de la *Loi sur les compagnies d'assurance canadiennes et britanniques* (Canada), la *Loi sur les compagnies d'assurance étrangères* (Canada), la *Loi sur les assurances* ou une loi semblable d'une province ou d'un territoire du Canada;

S.R.C. 1970.  
chap. N-10

S.R.C. 1970.  
chap. I-15,  
I-16  
L.R.O. 1980.  
chap. 218

- b) des débentures, des obligations ou d'autres titres de créance :

débentures.  
obligations

- (i) émis ou garantis par le gouvernement du Canada ou d'une province ou d'un territoire du Canada,
- (ii) émis ou garantis par un pays étranger ou un État qui en fait partie, pourvu que ceux-ci aient, de façon soutenue au cours des dix dernières années, versé les intérêts sur leurs titres de créance au fur et à mesure de leur échéance,
- (iii) émis par une municipalité du Canada ou un conseil scolaire du Canada ou garantis soit par une municipalité canadienne, soit au moyen d'impôts ou de taxes levés sur des biens conformément aux lois de la province ou du territoire où ils sont situés et recouvrables par la municipalité ou le conseil scolaire du lieu où ils sont situés, ou par leur truchement,



(iv) of any company that are secured by a mortgage to a trust corporation in Canada either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes in clause (a) or subclause (i), (ii), (iii) or (v),

(v) of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the debentures, bonds or other evidences of indebtedness outstanding and to meet the principal amount of the debentures, bonds or other evidences of indebtedness upon maturity;

idem

(c) securities of or guaranteed by any company if, at the date of the investment, the company has been in *bona fide* operation for at least five years;

life insurance policy

(d) mortgages or assignments of life insurance policies but only by way of loan and only if at the date of the loan such policy has an ascertained cash surrender value admitted by the insurer at least equal to the amount of the loan;

deposits in banks

(e) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank; and

deposits in registered corporation or credit union  
R.S.O. 1980, c. 102

(f) deposits in a registered corporation or in a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*.

Government guaranteed loans, personal loans, commercial lending

(2) A registered corporation may invest,

(a) by lending money by way of guaranteed loans under and in accordance with any of the following for which it has been designated as a bank or lender,

R.S.C. 1970, c. S-17

(i) the *Canada Student Loans Act*,

R.S.C. 1970, c. F-3

(ii) the *Farm Improvement Loans Act* (Canada),

(iv) émis par une corporation et garantis au moyen d'une hypothèque consentie à une compagnie de fiducie au Canada, soit seule, soit en commun avec un autre fiduciaire et qui porte sur des biens immeubles améliorés ou d'autres biens de celle-ci dans les catégories visées à l'alinéa a) ou aux sous-alinéas (i), (ii), (iii) ou (v),

(v) émis par une corporation et garantis au moyen de la cession en faveur d'un fiduciaire de paiements que le gouvernement du Canada a convenu d'effectuer, si ces paiements suffisent à acquitter les intérêts au fur et à mesure qu'ils sont échus, sur les débentures, obligations ou autres titres de créance en circulation, ainsi que le montant en principal de ces titres à leur échéance;

c) des valeurs mobilières émises ou garanties par une corporation si celle-ci, à la date du placement, est exploitée effectivement depuis au moins cinq ans; idem

d) des hypothèques ou des cessions de polices d'assurance-vie, seulement au moyen de prêts et si à la date du prêt ces polices ont une valeur de rachat précise et reconnue par l'assureur comme étant au moins égale au montant du prêt; polices d'assurance-vie

e) des dépôts bancaires ou des récépissés, des billets ou des certificats de dépôts, acceptations ou autres effets semblables délivrés ou visés par une banque; dépôts auprès d'une banque

f) des dépôts auprès d'une compagnie inscrite ou d'une caisse populaire ou *credit union* constitués ou enregistrés en vertu de la *Loi sur les caisses populaires et les credit unions*. dépôts auprès d'une compagnie inscrite ou d'une caisse populaire  
L.R.O. 1980, chap. 102

(2) La compagnie inscrite peut effectuer des placements :

a) au moyen de prêts de sommes d'argent à titre de prêts garantis conformément à l'une des lois suivantes, en vertu de laquelle la compagnie a été désignée en tant que banque ou institution prêteuse : Prêts garantis par le gouvernement, prêts personnels et commerciaux

(i) la *Loi canadienne sur les prêts aux étudiants*, S.R.C. 1970, chap. S-17

(ii) la *Loi sur les prêts destinés aux améliorations agricoles* (Canada), S.R.C. 1970, chap. F-3


R.S.C. 1970,  
c. F-22

(iii) the *Fisheries Improvement Loans Act* (Canada),

R.S.C. 1970,  
c. S-10

(iv) the *Small Business Loans Act* (Canada),

(v) any statute of Canada or of a province of Canada designated by the regulations,

(vi) any ordinance of a territory of Canada designated by the regulations; 

(b) by making personal loans to any individual, with or without security, not exceeding those amounts as may be prescribed; and

(c) by making loans for business or commercial purposes not authorized by any other provision of this Act payable on demand or in less than one year to companies, partnerships, sole proprietorships and joint ventures.

Leases and  
conditional  
sale  
agreements

(3) A registered corporation may invest by way of purchase of personal property and the lease of it to a lessee or by way of loan to a lessee or conditional purchaser where the evidence of the investment is a lease of personal property or an instrument similar to a lease of personal property or a conditional sales contract but only if the investment is for a fixed term and,

(a) the lessee or conditional purchaser is the Government of Canada or of a province or territory of Canada or any agency thereof or any municipality in Canada;



(b) the lessee or conditional purchaser is a company, partnership, sole proprietorship or joint venture; or

(c) the lessee or conditional purchaser is an individual and the balance payable under the lease or instrument does not exceed such amount as may be prescribed.

Restrictions  
on personal  
loans,  
commercial  
lending,  
leases and  
conditional  
sales  
agreements

(4) A registered corporation shall not make investments,

(a) by way of a loan under clause (1) (b), (c), (e) or (f) if the amount of the loan exceeds at the date of the loan the market value of the security for the loan;

(iii) la *Loi sur les prêts aidant aux opérations de pêche* (Canada), S.R.C. 1970, chap. F-22

(iv) la *Loi sur les prêts aux petites entreprises* (Canada), S.R.C. 1970, chap. S-10

(v) une loi du Canada ou d'une province du Canada, désignée par les règlements,

(vi) une ordonnance d'un territoire du Canada, désignée par les règlements; ➡

b) au moyen de prêts personnels consentis à des particuliers, assortis ou non de sûretés, dont les montants ne dépassent pas les maximums prescrits;

c) au moyen de prêts qui sont consentis à des corporations, des sociétés, des entreprises personnelles ou communes à des fins commerciales et qui ne sont pas déjà autorisés par une autre disposition de la présente loi, ces prêts étant remboursables sur demande ou en moins d'un an.

(3) La compagnie inscrite peut effectuer un placement au moyen de l'achat de biens meubles et de leur location à un locataire, ou au moyen d'un prêt à un locataire ou à un acquéreur sous condition, si le titre qui constate ce placement est un bail mobilier, un acte juridique semblable ou un contrat de vente conditionnelle, pourvu que le placement soit d'une durée déterminée et :

Baux et contrats de vente conditionnelle

a) que le locataire ou l'acquéreur sous condition soit le gouvernement du Canada ou d'une province ou d'un territoire du Canada, l'un de leurs organismes ou une municipalité canadienne; ➡

b) que le locataire ou l'acquéreur sous condition soit une corporation, une société ou une entreprise personnelle ou commune;

c) que le locataire ou l'acquéreur sous condition soit une personne physique et que le solde qui reste à payer aux termes du bail ou de l'acte ne dépasse pas le montant prescrit.


(4) La compagnie inscrite ne doit pas effectuer de placements :

a) au moyen de prêts aux termes des alinéas (1) b), c), e) ou f), si le montant du prêt est supérieur, à la date du prêt, à la valeur marchande de la sûreté;

Restrictions aux prêts personnels et commerciaux, aux baux et contrats de vente conditionnelle

- (b) under clause (2) (b) or (c) or clause (3) (b) or (c) unless,
  - (i) it is authorized by its registration to make such class of investments, and
  - (ii) it complies with the terms, conditions and restrictions, if any, imposed on the corporation in its registration with respect to such class of investments;
- (c) under clause (2) (b) or clause (3) (c) unless the aggregate total of such investments is 20 per cent or less of the total assets of the corporation or such lower percentage as is authorized by its registration;
- (d) under clause (2) (c) or clause (3) (b) unless,
  - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
  - (ii) the combined total of the investments under those two clauses is 20 per cent or less of the total assets of the corporation or such lower percentage as is authorized by its registration.

Real estate  
for the  
production  
of income

**163.**—(1) Subject to subsection (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada for the production of income. 


Idem

(2) The total book value on a gross basis of all investments in real estate under this section and section 164, whether by a corporation or by a subsidiary of the corporation, shall not exceed 10 per cent of the total assets of the corporation and not more than 1 per cent of the total assets of the corporation may be invested in any one parcel of real estate purchased under this section.

Real estate  
for own use

**164.**—(1) Subject to subsection 163 (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada that is or is to be occupied by the corporation for its own use.

Idem

(2) For the purposes of this section, real estate purchased by a subsidiary of a registered corporation that is occupied and used by the subsidiary for either or both its own purposes and the purposes of the registered corporation shall be deemed to be real estate purchased by the registered corporation under this section. 



- b) aux termes des alinéas (2) b) ou c) ou des alinéas (3) b) ou c), à moins que :
  - (i) d'une part, les conditions rattachées à son inscription n'autorisent les placements de cette catégorie,
  - (ii) d'autre part, la compagnie ne se conforme aux conditions et restrictions propres à cette catégorie de placements et rattachées à l'inscription de la compagnie, le cas échéant;
- c) aux termes des alinéas (2) b) ou (3) c), à moins que la somme totale de ces placements ne représente que 20 pour cent ou moins de l'actif total de la compagnie ou le pourcentage plus faible qu'autorisent les conditions rattachées à l'inscription de la compagnie;
- d) aux termes des alinéas (2) c) ou (3) b), à moins que :
  - (i) d'une part, l'apport en capital de la compagnie ne soit de 15 000 000 \$ ou plus,
  - (ii) d'autre part, la somme totale des placements effectués aux termes de ces deux alinéas ne représente que 20 pour cent ou moins de l'actif total de la compagnie ou le pourcentage plus faible qu'autorisent les conditions rattachées à l'inscription de la compagnie. ➡

**163** (1) Sous réserve du paragraphe (2), la compagnie inscrite peut effectuer des placements au moyen de l'achat de biens immeubles améliorés situés au Canada, afin de produire un revenu.

Les biens  
immeubles  
productifs de  
revenus

(2) La valeur comptable totale de tous les placements immobiliers aux termes du présent article et de l'article 164, calculée sur une base brute, qu'ils soient effectués par une compagnie ou par ses filiales, ne doit pas dépasser 10 pour cent de l'actif total de la compagnie. Cette dernière ne doit pas en outre affecter plus de 1 pour cent de la valeur de son actif total à l'achat aux termes du présent article d'un bien immeuble en particulier.

Idem

**164** (1) Sous réserve du paragraphe 163 (2), la compagnie inscrite peut effectuer des placements au moyen de l'achat de biens immobiliers améliorés situés au Canada qu'elle occupe ou occupera elle-même.

Biens immeu-  
bles destinés  
à son propre  
usage


(2) Pour l'application du présent article, le bien immobilier dont la filiale d'une compagnie inscrite a fait l'acquisition et

Idem

Exclusion of  
foreclosed  
real estate  
from  
determination  
of  
total book  
value

**165.**—(1) The book value of real estate that has been mortgaged to a corporation or any of its subsidiaries and that has been acquired by the corporation or the subsidiary to protect its investment and of real estate that has been conveyed to it or any of its subsidiaries in satisfaction of debts previously contracted in the course of the corporation's business or that of the subsidiary need not be included in determining total book value of real estate for the purposes of subsection 163 (2).

Sale of  
foreclosed  
real estate

(2) Where real estate has been mortgaged to a corporation or any of its subsidiaries and the real estate has been acquired by the corporation or the subsidiary to protect its investment, the corporation or subsidiary may sell the real estate and take back a mortgage of it even though the mortgage does not satisfy the requirements of clause 162 (1) (a). 

"Open  
basket"

**166.**—(1) A registered corporation may make investments not authorized by section 162, 163 or 164 if the investment is not prohibited under any other provision of this Act so long as the total book value of investments made under this section and held by the corporation does not exceed 5 per cent of the total assets of the corporation.

Idem

(2) Subsection (1) does not apply so as to,

- (a) enlarge the authority conferred by this Act to invest in mortgages, or to lend on the security of real estate; or
- (b) affect the limit of 10 per cent of the total assets that may be invested in real estate under section 163.

Idem

(3) Where a corporation has received the approval of the Superintendent to make investments under clause 162 (2) (b) or (c) or clause 162 (3) (b), the corporation shall not make any such investments under subsection (1).

Investment  
limits

**167.**—(1) Notwithstanding any other provision of this Act, except paragraph 4 of subsection 28 (1), a corporation shall maintain at all times at least 50 per cent of its total assets, excluding assets of subsidiaries, in,

- (a) bonds, debentures or other evidences of indebtedness,

qu'elle occupe et utilise à ses propres fins ou aux fins de la compagnie inscrite, ou à ces deux fins, est réputé acquis par la compagnie inscrite aux termes du présent article.

**165** (1) Il n'est pas nécessaire d'inclure, aux fins d'établir la valeur comptable des biens immeubles pour l'application du paragraphe 163 (2), les biens immeubles hypothéqués en faveur d'une compagnie ou de l'une de ses filiales dont la compagnie ou la filiale a fait l'acquisition pour la protection de ses placements. Il en est de même des biens immeubles dont il a été fait cession à la compagnie ou à sa filiale en paiement de dettes préalablement contractées dans le cours de ses affaires.

Exclusion de la valeur comptable des biens immeubles qui font l'objet d'une forclusion

(2) Si un bien immeuble a été hypothéqué en faveur d'une compagnie ou de l'une de ses filiales et que la compagnie ou la filiale en a fait l'acquisition pour la protection de ses placements, elle peut vendre le bien immeuble moyennant la création d'une hypothèque en sa faveur, même si cette hypothèque ne satisfait pas aux exigences de l'alinéa 162 (1) a). ➡

Vente des immeubles qui font l'objet d'une forclusion

**166** (1) La compagnie inscrite peut effectuer des placements qui ne sont pas autorisés par les articles 162, 163 ou 164, pourvu que le placement ne soit pas prohibé aux termes d'une autre disposition de la présente loi et que la valeur comptable des placements effectués aux termes du présent article et que possède la compagnie inscrite ne soit pas supérieure à 5 pour cent de son actif total.

Placements divers

(2) Le paragraphe (1) n'a pas pour effet :

Idem

- a) d'étendre le pouvoir accordé par la présente loi d'effectuer des placements hypothécaires ou de consentir des prêts garantis par des biens immeubles;
- b) de modifier la limite de 10 pour cent de l'actif total qui peut être placé dans des biens immeubles en vertu de l'article 163.

(3) La compagnie qui a reçu l'approbation du surintendant en vue d'effectuer des placements en vertu des alinéas 162 (2) b) ou c) ou (3) b) ne doit pas effectuer de tels placements en vertu du paragraphe (1).

Idem

**167** (1) Malgré toute autre disposition de la présente loi, à l'exception de la disposition 4 du paragraphe 28 (1), au moins 50 pour cent de l'actif total de la compagnie, à l'exclusion de l'actif de ses filiales, se compose :

Nature des placements

- a) d'obligations, de débentures ou d'autres titres de créance :

- (i) of or guaranteed by the Government of Canada or any province or territory of Canada,
- (ii) of any municipality or school board in Canada, or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province or territory of Canada on property in such province or territory and collectable by or through the municipality or school board for the jurisdiction in which such property is situated;
- ➡ (b) first mortgages, upon real estate in Canada;
- (c) debt instruments of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make and that are sufficient to meet the interest as it falls due and to meet the principal amount upon maturity; ➡
- (d) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank;
- ➡ (e) deposits in a registered corporation;
- (f) debt instruments of banks; ➡
- (g) such other investments as may be prescribed; or
- (h) any combination of cash and the investments referred to in clauses (a) to (g).

Third and  
subsequent  
mortgages

(2) Investments by a registered corporation in third and subsequent mortgages shall be limited to 2 per cent of the total assets of the corporation.

Idem

(3) For the purposes of subsection (2), an investment in a third or subsequent mortgage by a subsidiary of a corporation shall be deemed to be an investment in the mortgage by the corporation.

Securities

➡ (4) A registered corporation shall not make an investment in securities of a company if, after the investment,

- (i) du gouvernement du Canada ou d'une province ou d'un territoire du Canada ou garanti par ces derniers,
  - (ii) d'une municipalité ou d'un conseil scolaire au Canada ou garantis soit par une municipalité canadienne, soit au moyen d'impôts ou de taxes levés sur des biens conformément aux lois de la province ou du territoire où ils sont situés et recouvrables par la municipalité ou le conseil scolaire où ils sont situés, ou par leur truchement;
- b) d'hypothèques de premier rang grevant des biens immeubles situés au Canada;
- c) de titres d'emprunt d'une corporation, garantis par la cession en faveur d'un fiduciaire de paiements que le gouvernement du Canada a convenu d'effectuer et qui suffisent à acquitter les intérêts au fur et à mesure qu'ils sont échus, ainsi que le montant principal à l'échéance;
- d) de dépôts bancaires ou de récépissés, de billets ou de certificats de dépôts, d'acceptations ou d'autres effets semblables délivrés ou visés par une banque;
- e) de dépôts auprès d'une compagnie inscrite;
- f) de titres d'emprunt de banques;
- g) d'autres placements prescrits;
- h) d'une combinaison de sommes en espèces et de placements visés aux alinéas a) à g).

(2) La compagnie inscrite ne doit placer plus de 2 pour cent de son actif total dans des hypothèques de troisième rang ou de rang postérieur.

Hypothèques de troisième rang et autres de rang postérieur

(3) Pour l'application du paragraphe (2), est réputé un placement de la compagnie le placement de sa filiale effectué dans des hypothèques de troisième rang ou de rang postérieur.

Idem

(4) La compagnie inscrite ne doit pas effectuer de placement dans des valeurs mobilières d'une corporation dont l'effet serait :

Valeurs mobilières



- (a) its holdings of securities of all companies carried on its books would exceed 25 per cent of its total assets; or
- (b) its holdings of common shares of all companies carried on its books would exceed 10 per cent of its total assets.

Idem

(5) The shares of a subsidiary of the corporation shall not be included in the calculation of the 10 per cent referred to in clause (4) (b).

Idem

(6) For the purposes of subsection (4), an investment in securities by a subsidiary of a corporation, other than a mutual fund or securities dealer subsidiary of the corporation, shall be deemed to be an investment by the corporation.

Restrictions  
on amount of  
single  
investments

**168.**—(1) No corporation shall directly or indirectly,

- (a) invest, by way of purchases from or loans to any one person or to two or more persons that to the knowledge of the corporation are related, an amount exceeding the greatest of,
  - (i) \$250,000,
  - (ii) 1 per cent of the corporation's total assets, or
  - (iii) such percentage of the corporation's total assets as may be prescribed; or
- (b) make any investment the effect of which will be that the corporation will hold more than 10 per cent of the issued and outstanding shares of a class of voting shares of any one body corporate other than a subsidiary of the corporation.

Government  
and bank  
securities

(2) Clause (1) (a) does not apply so as to restrict investments in,

- (a) securities issued or guaranteed by the Government of Canada, including mortgages insured under the *National Housing Act* (Canada), by the government of any province of Canada or by any municipality in Canada;

- a) soit de porter, au regard de leur valeur comptable, les valeurs mobilières de corporations détenues par la compagnie à plus de 25 pour cent de son actif total;
- b) soit de porter, au regard de leur valeur comptable, les actions ordinaires de corporations détenues par la compagnie à plus de 10 pour cent de son actif total.

(5) Il n'est pas tenu compte, pour le calcul des 10 pour cent visés à l'alinéa (4) b), des actions d'une filiale de la compagnie. Idem

(6) Pour l'application du paragraphe (4), est réputé un placement de la compagnie le placement effectué dans des valeurs mobilières par sa filiale, à l'exception d'une filiale à fonds mutuel ou d'une filiale de courtage en valeurs mobilières. Idem

**168** (1) Nulle compagnie ne doit, directement ou indirectement : Limites au montant des placements particuliers

- a) effectuer, au moyen d'achats faits auprès d'une seule personne ou auprès de plusieurs personnes que la compagnie sait être liées, ou au moyen de prêts consentis à cette personne ou à ces personnes, un placement qui excède le plus élevé des montants suivants :

(i) 250 000 \$,

(ii) 1 pour cent de l'actif total de la compagnie,

(iii) le pourcentage prescrit de l'actif total de la compagnie;

- b) effectuer un placement qui porterait à plus de 10 pour cent le nombre d'actions émises et en circulation d'une catégorie d'actions assorties du droit de vote que celle-ci détient auprès d'une personne morale particulière qui n'est pas sa filiale.

(2) L'alinéa (1) a) n'a pas pour effet d'interdire les placements effectués : Valeurs mobilières de gouvernements ou de banques

- a) dans des valeurs mobilières émises ou garanties par le gouvernement du Canada, y compris les hypothèques assurées en vertu de la *Loi nationale sur l'habitation* (Canada), par le gouvernement d'une de ses provinces ou par une municipalité du Canada;

S.R.C. 1970.  
chap. N-10

(b) debt instruments issued or endorsed by a bank.

Securities  
dealers

(3) Subject to such conditions as may be prescribed, a corporation, with the approval of the Superintendent, may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*.


R.S.O. 1980,  
c. 466

Non-  
application

(4) Clause (1) (b) and subsections 169 (2) and (4) do not apply to an investment under subsection (3).

Related  
persons

(5) For the purposes of this section, a person shall be deemed to be related to,

- (a) every body corporate which the person controls and every affiliate of such body corporate;
- (b) every partner of the person who has an interest of 50 per cent or more in a partnership in which the person has an interest of 50 per cent or more;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity;
- (d) the spouse and every child of the person;
- (e) every relative of the person or of his or her spouse who has the same home as the person. 

Investment in  
subsidiaries

**169.**—(1) Subject to such terms and conditions concerning subsidiaries as may be prescribed, a registered corporation may establish or acquire as a subsidiary,

- (a) any company incorporated in Canada to acquire, hold, maintain, improve, sell, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;
- (b) with the prior approval of the Superintendent, any company incorporated other than in Canada to acquire, hold, maintain, improve, sell, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;

- b) dans des titres d'emprunt qui sont émis ou endossés par une banque.

(3) Sous réserve des conditions prescrites et avec l'approbation du surintendant, la compagnie peut investir ses fonds dans les actions assorties du droit de vote et entièrement libérées d'un courtier au sens de la *Loi sur les valeurs mobilières*.

Courtiers en valeurs mobilières


L.R.O. 1980, chap. 466

(4) L'alinéa (1) b) et les paragraphes 169 (2) et (4) ne s'appliquent pas au placement visé au paragraphe (3).

Non-application

(5) Pour l'application du présent article, une personne est réputée liée :

Personnes liées

- a) à la personne morale dont elle a le contrôle, ainsi qu'aux membres du même groupe que cette personne morale;
- b) à chacun des associés de cette personne qui a une participation de 50 pour cent ou plus dans une société dans laquelle la personne a également une participation de 50 pour cent ou plus;
- c) à la fiducie ou à la succession sur laquelle la personne a un droit important à titre bénéficiaire ou à l'égard de laquelle elle remplit des fonctions de fiduciaire ou des fonctions analogues;
- d) au conjoint et à chaque enfant de cette personne;
- e) à chaque parent de la personne ou de son conjoint, qui habite avec elle. 


**169** (1) Sous réserve des conditions prescrites en ce qui concerne les filiales, la compagnie inscrite peut constituer ou acquérir à titre de filiale :

Placements auprès de filiales

- a) une corporation constituée au Canada dans le but d'acquérir, de détenir, de conserver, d'améliorer, de vendre, de louer ou d'administrer des biens immeubles ou des tenures à bail ou de servir de mandataire lors de l'acquisition ou de la vente de ces biens;
- b) avec l'approbation préalable du surintendant, une corporation constituée en dehors du Canada aux fins d'acquérir, de détenir, de conserver, d'améliorer, de vendre, de louer ou d'administrer des biens immeubles ou des tenures à bail ou de servir de mandataire lors de l'acquisition ou de la vente de ces biens;

- (c) with the prior approval of the Superintendent and subject to such terms and conditions as the Superintendent may impose or as may be prescribed, any company to carry on any other business activity reasonably ancillary to the business of a corporation;



- (d) a loan corporation incorporated in Canada, if the investing corporation is a trust corporation; and
- (e) a trust corporation incorporated in Canada, if the investing corporation is a loan corporation. 

Prohibition

(2) A subsidiary described in subsection (1) shall not invest its funds except as provided for registered corporations in this Act.

Idem

(3) Subsection (2) does not apply to a subsidiary described in clause (1) (c) so long as the corporation satisfies all terms and conditions imposed by the Superintendent or the regulations.

Idem

(4) A registered corporation shall not make an investment in or guarantee any obligation of a subsidiary of the corporation if, after the making of the investment or the giving of the guarantee, the total book value of all such investments and guarantees will exceed 5 per cent of the corporation's total assets.

Idem

(5) Subsection (4) does not apply to investments in or guarantees of the obligations of a subsidiary described in clause (1) (d) or (e).

Other  
investments  
authorized

**170.** The Lieutenant Governor in Council may authorize the acceptance by a registered corporation of securities or other assets not fulfilling the requirements of this Act,

- (a) obtained in payment or part payment for securities sold by the corporation;
- (b) obtained under a *bona fide* arrangement for the reorganization of a body corporate whose securities were previously owned by the corporation;
- (c) obtained under an amalgamation with another body corporate of the body corporate whose securities were previously owned by the corporation;



- c) avec l'approbation préalable du surintendant et sous réserve des conditions que fixe ce dernier ou qui sont prescrites, toute corporation dans le but d'exercer une activité raisonnablement accessoire à celle de la compagnie;



- d) une compagnie de prêt constituée au Canada, si l'investisseur est une compagnie de fiducie;

- e) une compagnie de fiducie constituée au Canada, si l'investisseur est une compagnie de prêt.



(2) La filiale visée au paragraphe (1) ne doit pas placer ses fonds qu'en conformité avec les dispositions de la présente loi applicables aux compagnies inscrites. Interdiction

(3) Le paragraphe (2) ne s'applique pas à la filiale visée à l'alinéa (1) c) tant que la compagnie se conforme à toutes les conditions fixées par le surintendant ou dans les règlements. Idem

(4) La compagnie inscrite ne doit pas effectuer de placement auprès de sa filiale, ni cautionner les obligations de cette dernière, si ces opérations avaient pour effet de porter, au regard de la valeur comptable, la somme totale de ces placements et cautionnements à plus de 5 pour cent de son actif total. Idem

(5) Le paragraphe (4) ne s'applique ni aux placements dans la filiale visée aux alinéas (1) d) ou e) ni aux cautionnements des obligations de cette dernière. Idem

**170** Le lieutenant-gouverneur en conseil peut autoriser une compagnie inscrite à accepter des valeurs mobilières ou autres éléments d'actif non conformes aux exigences de la présente loi et obtenus : Acceptation d'autres placements

- a) en paiement total ou partiel de valeurs mobilières vendues par la compagnie;
- b) de bonne foi aux termes d'un arrangement conclu lors de la réorganisation d'une personne morale dont les valeurs mobilières étaient auparavant la propriété de la compagnie;
- c) aux termes de la fusion d'une personne morale dont les valeurs mobilières étaient auparavant la propriété de la compagnie, avec une autre personne morale;

(d) obtained for the *bona fide* purpose of protecting investments of the corporation;

(e) obtained by virtue of the purchase by the corporation of the assets of another corporation; or

(f) obtained by virtue of realizing on the security for a loan where the security is shares in a body corporate and the effect of realizing on the security is that the registered corporation will hold more than 10 per cent of the issued and outstanding shares of a class of voting shares of any one body corporate,

but the securities or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof or, within such further time not exceeding one year as the Lieutenant Governor in Council, on the report of the Superintendent, may fix and determine, unless it can be shown to the satisfaction of the Superintendent that the securities or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

Additional  
collateral

**171.** A registered corporation may take real or personal property as collateral security for any advance or for any debt due to the corporation in addition to any other security for the advance or debt required under this Act.

Allocation of  
security

**172.** A single loan that is secured by two or more assets or classes of assets that would, but for this section, not be an investment of the corporation permitted under this Act may be divided into different amounts and considered as separate loans with respect to each asset or class of assets for the purposes of determining whether the loan is permitted under this Act.

Common  
trust  
funds  
authorized

**173.—**(1) Notwithstanding this or any other Act, a registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, unless the trust instrument otherwise directs, invest money held by it as a fiduciary, other than deposits, in one or more common trust funds of the trust corporation and, where trust money is held by the trust corporation as a co-trustee, the investment thereof in a common trust fund may only be made by the trust corporation with the consent of its co-trustees.

Exception

(2) A common trust fund authorized by subsection (1) shall not include any money in relation to a trust established exclusively for savings plans registered under the *Income Tax Act* (Canada).

R.S.C. 1952,  
c. 146

- d) de bonne foi dans le but de protéger les placements de la compagnie;
- e) lors de l'acquisition par la compagnie de l'actif d'une autre compagnie;
- ➡ f) par la réalisation de la sûreté d'un prêt composée d'actions d'une personne morale et qui porte à plus de 10 pour cent le nombre d'actions émises et en circulation d'une catégorie d'actions assorties du droit de vote d'une personne morale particulière que détient la compagnie. ➡

Les valeurs mobilières ou autres éléments d'actif dont l'acceptation est autorisée sont aliénés dans les cinq ans de leur acquisition ou au cours de la période plus longue, n'excédant pas un an, que peut fixer le lieutenant-gouverneur en conseil sur recommandation du surintendant. Toutefois, il n'est pas nécessaire d'aliéner ces valeurs mobilières ou autres éléments d'actif s'il peut être démontré à la satisfaction du surintendant que leur valeur ou leur qualité ne sont pas inférieures à celles des valeurs mobilières qu'ils remplacent.

**171** La compagnie inscrite peut accepter, outre la garantie exigée aux termes de la présente loi, des biens meubles ou immeubles à titre de sûretés accessoires affectées à la garantie de ses créances.

Garantie supplémentaire

**172** Aux fins de déterminer si un prêt est permis aux termes de la présente loi, le prêt simple garanti par deux ou plusieurs biens ou catégories de biens qui, n'était le présent article, ne serait pas permis comme placement, peut être divisé en plusieurs montants et traité comme s'il constituait des prêts distincts se rapportant chacun à un bien ou à une catégorie de biens.

Division en plusieurs montants

**173** (1) Malgré la présente loi ou toute autre loi, la compagnie de fiducie provinciale inscrite et toute autre compagnie de fiducie inscrite ayant cette capacité peuvent, sauf disposition contraire contenue à l'acte de fiducie, placer des sommes d'argent qu'elle détient à titre de fiduciaire, à l'exception des dépôts, dans un ou plusieurs des fonds en fiducie collectifs de la compagnie. Si celle-ci détient ces sommes en qualité de cofiduciaire elle n'effectue ce placement qu'avec le consentement de ses cofiduciaires.

Création de fonds en fiducie collectifs permise

(2) Sont exclues du fonds en fiducie collectif visé au paragraphe (1) les sommes d'argent reliées à la fiducie créée uniquement aux fins de constituer un régime d'épargne enregistré aux termes de la *Loi de l'impôt sur le revenu* (Canada).

Exception

S.R.C. 1952, chap. 146

Idem (3) No common trust fund shall be established or operated except in the prescribed manner.

Passing of accounts (4) A trust corporation may, at any time, and shall, when required in writing by the Superintendent so to do under subsection (5), file and pass an account of its dealings with respect to a common trust fund in the surrogate court having jurisdiction in the place in which the fund is being administered, and the court, on the passing of the account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

When account final (5) An account filed with the Superintendent in accordance with the regulations, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed, the Superintendent requires in writing that the account be filed and passed in the surrogate court.

Accounting only necessary under this section or regulations (6) Notwithstanding any other Act or law, a trust corporation shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Time and place for passing of account (7) Upon the filing of an account under this section, the court shall fix a time and place for the passing of the account, and the trust corporation shall cause a written notice of the appointment and a copy of the account to be served upon the Superintendent at least fourteen days before the date fixed for the passing, and the trust corporation shall not be required to give any other notice of the appointment.

Form of account (8) For the purposes of an accounting under this section, an account may be filed in the form of audited accounts filed with the Superintendent in accordance with the regulations.

Superintendent to represent persons having interest in fund (9) Upon the passing of an account under this section, the Superintendent shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right, at the person's own expense, to appear personally or to be separately represented.

Approval of court (10) Where an account filed under this section has been approved by the surrogate court, the approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account.



(3) La création et l'exploitation du fonds en fiducie collectif se font selon les modalités prescrites. Idem

(4) Une compagnie de fiducie peut à tout moment déposer auprès du tribunal successoral du ressort de gestion du fonds en fiducie collectif le compte des opérations qui s'y rapportent et en obtenir l'approbation. Elle y est toutefois tenue si le surintendant l'exige par écrit en vertu du paragraphe (5). Sous réserve du présent article, les attributions du tribunal sont alors les mêmes que dans le cas de l'approbation des comptes de l'exécuteur testamentaire. Approbation du compte

(5) Sauf le cas de preuve d'erreur ou de fraude, le compte déposé auprès du surintendant conformément aux règlements est concluant et lie toutes les parties intéressées quant à son contenu et à la gestion par la compagnie du fonds en fiducie collectif pour la période qui y est précisée, à moins que le surintendant n'exige par écrit, dans les six mois du dépôt de ce compte, que celui-ci soit déposé devant le tribunal successoral pour approbation. Compte définitif

(6) Malgré toute autre loi ou règle de droit, la compagnie de fiducie ne peut pas être tenue de rendre compte de ses opérations reliées au fonds en fiducie collectif autrement qu'aux termes du présent article et des règlements. Reddition de comptes conforme au présent article et aux règlements : la seule nécessaire

(7) Lors du dépôt d'un compte aux termes du présent article, le tribunal fixe la date, l'heure et le lieu de l'approbation. La compagnie de fiducie fait signifier au surintendant, au moins quatorze jours avant la date ainsi fixée, un avis écrit de la convocation accompagné d'une copie du compte. La compagnie ne peut pas être tenue de donner d'autre avis de la convocation. Date et lieu de l'approbation du compte

(8) Aux fins de l'approbation du compte aux termes du présent article, le compte déposé peut revêtir la forme des comptes vérifiés déposés auprès du surintendant conformément aux règlements. Forme que revêt le compte

(9) Lors de l'approbation d'un compte aux termes du présent article, le surintendant représente l'ensemble des titulaires de droits sur les sommes d'argent placées dans le fonds en fiducie collectif. Ces titulaires ont toutefois le droit, à leurs frais, de comparaître en personne ou de se faire représenter par un mandataire. Le surintendant représente les personnes qui y ont un droit

(10) Sauf le cas de preuve d'erreur ou de fraude, si le compte déposé aux termes du présent article a reçu l'approbation du tribunal successoral, cette approbation est concluante et lie toutes les parties intéressées quant à son contenu et quant à la gestion par la compagnie du fonds en fiducie collectif pour la période qui y est précisée. Approbation du tribunal



Costs

(11) The costs of passing an account under this section shall be charged to principal and income of the common trust fund in such proportions as the surrogate court considers proper.

Mutual funds

R.S.O. 1980,  
c. 466

**174.** No registered trust corporation or subsidiary of a registered trust corporation shall promote or operate a mutual fund within the meaning of the *Securities Act* unless the corporation or subsidiary gives notice to the Superintendent at least thirty days before starting to promote or operate the mutual fund and provides such information respecting the mutual fund as the Superintendent may require.

Extent of  
liability  
and powers

**175.**—(1) The liability of a registered trust corporation to persons interested in an estate held by the trust corporation as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the corporation's powers are the same.

Approval of  
the  
corporation  
as executor,  
etc.

(2) Where a registered trust corporation is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the corporation being accepted as a trust corporation for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the corporation, appoint the corporation to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the corporation probate of any will in which the corporation is named as an executor.

Appointment  
as trustee

(3) A registered trust corporation approved by the Lieutenant Governor in Council under subsection (2),

(a) may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee; and

(b) may be appointed to any of the offices mentioned in subsection (2) jointly with another person,

and the appointment may be made whether the trustee is required under a deed, will or document creating a trust or whether the appointment is under the *Trustee Act* or otherwise.

R.S.O.1980,  
c. 512Security not  
required

(4) Notwithstanding any rule, practice or statutory provision, it is not necessary for a trust corporation approved under

(11) Les frais de l'approbation d'un compte aux termes du présent article sont imputés à la fois au principal et aux revenus du fonds en fiducie collectif dans la proportion jugée convenable par le tribunal successoral.

Frais

**174** Ni la compagnie de fiducie inscrite, ni sa filiale, ne doivent assurer la promotion ou l'exploitation d'un fonds mutuel au sens de la *Loi sur les valeurs mobilières*, à moins d'en donner avis au surintendant au moins trente jours avant de commencer à assurer la promotion ou l'exploitation du fonds mutuel, et de fournir au surintendant les renseignements au sujet du fonds qu'il peut exiger.

Fonds  
mutuelsL.R.O. 1980,  
chap. 466

**175** (1) Les obligations de la compagnie de fiducie inscrite, en sa qualité d'exécuteur testamentaire, d'administrateur successoral, de fiduciaire, de séquestre, de liquidateur, de cessionnaire, de tuteur ou de curateur, envers les personnes qui ont un droit sur la succession ou sur les biens visés, selon le cas, sont identiques à celles du particulier qui a reçu le même mandat. Il en est de même des pouvoirs de la compagnie à cet égard.

Étendue des  
obligations et  
pouvoirs

(2) Le tribunal ou le juge fondé à désigner un exécuteur testamentaire, un administrateur successoral, un fiduciaire, un séquestre, un liquidateur, un cessionnaire, un tuteur ou un curateur peut, avec le consentement de la compagnie de fiducie inscrite qui est autorisée à agir en cette qualité et qui a été agréée par le lieutenant-gouverneur en conseil à cet égard pour les fins de la Cour suprême, confier à cette compagnie les fonctions précitées à l'égard de la succession ou de la personne qui relève de la compétence de ce tribunal ou de ce juge. Le tribunal ou le juge peut aussi lui délivrer, en sa qualité d'exécuteur testamentaire visé au testament, les lettres d'homologation du testament.

Agrément de  
la compagnie  
à titre d'exé-  
cuteur testa-  
mentaire, etc.

(3) La compagnie de fiducie inscrite agréée par le lieutenant-gouverneur en conseil aux termes du paragraphe (2), peut être nommée :

Nomination à  
titre de  
fiduciaire

- a) fiduciaire unique quoiqu'il eût été nécessaire, n'eût été la présente loi, de désigner plus d'un fiduciaire;
- b) à n'importe laquelle des fonctions visées au paragraphe (2) en commun avec une autre personne.

Elle peut être nommée à ces titres, que la nomination soit exigée aux termes d'un acte, d'un testament ou d'un autre écrit qui crée une fiducie ou qu'elle soit faite en vertu de la *Loi sur les fiduciaires* ou autrement.

L.R.O. 1980,  
chap. 512

(4) Malgré toute règle, pratique ou disposition d'une loi, la compagnie de fiducie agréée en vertu du paragraphe (2) n'est

Cautionne-  
ment non  
nécessaire

subsection (2) to give any security for the due performance of its duty as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless so ordered by a court.

Trusts

**176.**—(1) A registered corporation is not bound to see to the execution of any trust, whether express, implied or constructive, other than a trust to which the corporation is a party, to which any of its deposits are subject.

Sufficient  
discharge

(2) The receipt of the person in whose name any deposit stands in the books of the corporation to which subsection (1) applies is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such deposit stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

Application  
of  
money paid

(3) A corporation is not bound to see to the application of any money paid upon a receipt under subsection (2).

## PART XI

### ADMINISTRATION

Appointment  
of Superin-  
tendent

**177.**—(1) The Lieutenant Governor in Council shall appoint an officer of the Ministry to be the Superintendent of Deposit Institutions who shall carry out the duties and exercise the powers of the Superintendent under this Act.

Appointment  
of  
Director

(2) The Superintendent may appoint an officer of the Ministry to be the Director to carry out the duties and exercise the powers of the Director under this Act.

Appeal  
panels

**178.**—(1) When an appeal is requested under this Act, the Minister shall appoint a panel to hear the appeal.

Composition

(2) An appeal panel shall consist of two persons who are not public servants and the Superintendent.

Secretary

(3) The Superintendent shall act as secretary of every appeal panel.

Chairman

(4) In appointing an appeal panel, the Minister shall name one of the persons who is not a public servant to be the chairman of the panel.

pas tenue de fournir de cautionnement en garantie de l'exécution de ses obligations d'exécuteur testamentaire, d'administrateur successoral, de fiduciaire, de séquestre, de liquidateur, de cessionnaire, de tuteur ou de curateur, sauf ordonnance contraire du tribunal.

**176-**(1) La compagnie inscrite n'est pas tenue de voir à l'exécution d'une fiducie explicite, implicite ou imputée à laquelle ses dépôts sont assujettis, à moins d'être elle-même partie à la fiducie. Fiducies

(2) Le récépissé délivré par la personne dont le nom figure vis-à-vis d'un dépôt aux dossiers de la compagnie visé au paragraphe (1) constitue à l'égard de la compagnie une quittance suffisante de tout paiement effectué relativement à ce dépôt. L'ordre d'effectuer un transfert, signé de la personne précitée, constitue pour la compagnie une autorisation suffisante à cette fin, sans égard à la fiducie à laquelle le dépôt peut alors être assujetti, que l'existence de la fiducie ait été portée ou non à la connaissance de la compagnie. Quittance suffisante

(3) La compagnie n'est pas tenue de voir à l'imputation des sommes d'argent à l'origine du récépissé délivré aux termes du paragraphe (2). Imputation des sommes versées

## PARTIE XI

### APPLICATION DE LA LOI

**177** (1) Le lieutenant-gouverneur en conseil nomme un fonctionnaire du ministère au poste de surintendant des institutions de dépôt, qui exerce les attributions du surintendant aux termes de la présente loi. Nomination du surintendant

(2) Le surintendant peut nommer un fonctionnaire du ministère au poste de directeur pour exercer les attributions du directeur aux termes de la présente loi. Nomination du directeur

**178** (1) Lorsqu'il est interjeté appel aux termes de la présente loi, le ministre nomme les membres d'un comité chargé d'entendre l'appel. Comités d'appel

(2) Le comité d'appel se compose de deux personnes qui ne sont pas fonctionnaires, ainsi que du surintendant. Composition

(3) Le surintendant remplit les fonctions de secrétaire des comités d'appel. Secrétaire

(4) Lorsqu'il constitue un comité d'appel, le ministre désigne au poste de président l'une des personnes qui n'est pas fonctionnaire. Président



Idem

(5) No individual shall be disqualified from acting as a member of an appeal panel solely on the grounds that he or she is a depositor in the corporation which is the subject of the proceedings before the panel.

Remuneration

(6) The members of an appeal panel, other than the Superintendent, shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Protection  
from  
personal  
liability

(7) No action or other proceeding for damages shall be instituted against any member of an appeal panel for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

No grants or  
gratuities to  
Ministry  
officials

**179.**—(1) No officer or employee of the Ministry performing duties or exercising powers under this Act shall accept or receive, directly or indirectly, any grant or gratuity from a corporation or any affiliate of a corporation or from any director, officer, employee or agent of a corporation or affiliate of a corporation and no corporation, director, officer, employee or agent of a corporation or any affiliate of a corporation shall make or give, directly or indirectly, any such grant or gratuity.

Interest as  
shareholder

(2) No officer or employee of the Ministry performing duties or exercising powers under this Act shall hold any shares of any corporation.

Capacity  
outside  
Ontario

**180.** The Superintendent and Director may, for the purposes of the administration and enforcement of this Act and the regulations, act outside Ontario as if they were acting inside Ontario.

Records

**181.**—(1) Records required by this Act to be prepared and maintained by the Superintendent or Director may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Admission as  
evidence

(2) When records maintained by the Superintendent or Director are prepared and maintained other than in written form,

- (a) the Superintendent or Director, as the case may be, shall furnish any copy required to be furnished in intelligible written form; and



(5) Une personne n'est pas inhabile à devenir membre d'un comité d'appel pour le seul motif qu'elle est déposante auprès de la compagnie qui fait l'objet de l'instance portée devant ce comité. Idem

(6) Les membres d'un comité d'appel, à l'exception du surintendant, reçoivent la rémunération et les indemnités que peut fixer le lieutenant-gouverneur en conseil. Rémunération

(7) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre un membre d'un comité d'appel pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de ses fonctions ou pour une négligence ou un défaut imputé dans l'exercice de bonne foi de ses fonctions. Immunité

**179** (1) Aucun employé du ministère qui exerce des attributions aux termes de la présente loi ne doit accepter ni recevoir directement ou indirectement, d'une compagnie, d'un membre du même groupe, de l'administrateur, du dirigeant, de l'employé ou du mandataire d'une compagnie ou du membre du même groupe, quelque don ou gratification. De même, aucune compagnie ni aucun administrateur, dirigeant, employé, ou mandataire de la compagnie ou du membre du même groupe ne doit pas donner, directement ou indirectement, un don ou une gratification pareils. Dons et gratifications  
prohibés

(2) Ne doit pas être actionnaire d'une compagnie l'employé du ministère qui exerce des attributions aux termes de la présente loi. Intérêt en  
tant qu'ac-  
tionnaire

**180** Pour l'application et l'exécution de la présente loi et des règlements, le surintendant et le directeur peuvent exercer leur compétence en dehors de l'Ontario comme s'ils agissaient à l'intérieur de cette province. Compétence  
en dehors de  
l'Ontario

**181** (1) Les dossiers dont la présente loi requiert la tenue par le surintendant ou le directeur peuvent être conservés, soit sous forme de livres reliés ou à feuilles mobiles, soit sous forme de pellicules photographiques, ou peuvent être enregistrés à l'aide d'un procédé mécanique ou électronique de traitement des données ou d'un autre système de mise en mémoire de l'information, capable de reproduire dans un délai normal sous une forme compréhensible et précise les renseignements exigés. Dossiers

(2) Si les dossiers tenus par le surintendant ou le directeur ne sont pas conservés par écrit : Admissibilité  
en preuve

- a) le surintendant ou le directeur, selon le cas, fournit sous une forme écrite compréhensible les copies exigées;

- (b) a report reproduced from those records, if it is certified by the Superintendent or Director, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Idem

(3) Neither the Superintendent nor the Director shall be required to produce any document where a copy of the document is furnished in compliance with clause (2) (a).

Power to  
require  
evidence

**182.**—(1) In pursuance of his or her duties under this Act, the Superintendent or Director may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employment  
of  
stenographer

(2) The evidence and proceedings in any matter before the Superintendent or Director may be reported by a stenographer who has taken an oath before the Superintendent or Director faithfully to report the same.

Examina-  
tions,  
audits and  
inspections,  
general

**183.**—(1) It is a condition of the registration of a corporation that it facilitate examinations, audits and inspections under this Act.

Material to  
be furnished

(2) For the purpose of an examination, audit or inspection under this Act, the registered corporation and its subsidiaries shall prepare and submit to the person conducting the examination, audit or inspection such statements or returns with respect to its business, finances or other affairs, in addition to the statements or returns mentioned in this Act, as the Superintendent or Director may require, and the officers, agents and servants of the corporation and its subsidiaries shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production  
of books

(3) In order to facilitate an examination, audit or inspection of the books and records of a registered corporation, the corporation and its subsidiaries may be required by the Superintendent or the Director to produce the books and records at the principal place of business of the corporation in Ontario, or at such other convenient place as the Superintendent or Director may direct.

Expense of  
further  
inspection

(4) On the direction of the Superintendent or Director, where an examination, audit or inspection of a corporation or a subsidiary of a corporation is made at an office situate outside Ontario, the corporation shall pay the costs and expenses in connection with such examination, audit or inspection.

- b) le rapport dressé d'après ces dossiers et certifié par le surintendant ou le directeur est admissible en preuve dans la même mesure que les dossiers écrits originaux l'auraient été, sans qu'il soit nécessaire d'établir la qualité du signataire ou l'authenticité de sa signature.

(3) Le surintendant et le directeur ne sont pas tenus de produire le document dont une copie est fournie conformément à l'alinéa (2) a). Idem

**182** (1) Dans l'exercice de leurs fonctions aux termes de la présente loi, le surintendant ou le directeur peuvent exiger et recevoir des affidavits, entendre et recevoir des dépositions et interroger des témoins sous serment. Pouvoir d'exiger une preuve

(2) Les témoignages et comptes rendus relatifs aux affaires instruites devant le surintendant ou le directeur peuvent être transcrits par le sténographe qui a fait serment devant ceux-ci de les transcrire fidèlement. Services de sténographes

**183** (1) Comme condition de son inscription, la compagnie facilite l'examen, la vérification et l'inspection exigés aux termes de la présente loi. Examens, vérifications et inspections

(2) Aux fins de l'examen, de la vérification ou de l'inspection exigés aux termes de la présente loi, la compagnie inscrite et ses filiales dressent et présentent à la personne chargée de ces opérations des relevés et rapports relatifs aux activités commerciales, aux finances ou autres affaires de celle-ci, en plus de ceux mentionnés à la présente loi, selon ce qu'exigent le surintendant ou le directeur. Les dirigeants, mandataires et préposés de la compagnie et de ses filiales permettent l'inspection des livres comptables et facilitent l'examen dans la mesure de leurs moyens. Documents à produire

(3) Dans le but de faciliter l'examen, la vérification ou l'inspection des livres comptables et des dossiers de la compagnie inscrite et de ses filiales, le surintendant ou le directeur peuvent exiger la production de ces documents à l'établissement principal de la compagnie en Ontario ou à un autre endroit convenable fixé par ceux-ci. Production des livres comptables

(4) L'examen, la vérification ou l'inspection tenus à un bureau situé hors de l'Ontario s'effectuent aux frais de la compagnie ou de sa filiale si le surintendant ou le directeur l'ordonnent. Frais de l'inspection supplémentaire

Annual  
inspection of  
registered  
corporations

**184.**—(1) Once each year or during such other period as the Superintendent may consider appropriate for a particular corporation, the Superintendent shall examine or cause a person acting under his or her direction to examine the statements of the condition and affairs of each registered corporation and the Superintendent or person shall make such inquiries as are necessary to ascertain the corporation's condition and ability to meet its obligations as and when they become due, whether the corporation is following sound business and financial practices, the procedures and standards of its management and whether or not the corporation has complied with this Act and the regulations and any requirement, order, term, condition or restriction of registration or inquiry made thereunder.

Idem

(2) In conducting the examination required by subsection (1), the Superintendent or other person shall attend at the principal place of business of the corporation and, if he or she considers it necessary, the Superintendent or person acting may visit any branch or office of the corporation.

Reliance on  
inspection  
by another  
government

(3) If the Superintendent is satisfied that an examination of a registered extra-provincial corporation conducted by the Government of Canada or of any province or territory of Canada complies with the standards required by the Superintendent for the examination of a corporation under subsection (1), the Superintendent may accept such examination, in whole or in part, as if it were an examination by the Superintendent under subsection (1).

Examination  
by  
Director

**185.** The Director, or any person designated by the Director, may at any time within business hours examine any books of or in the possession of a registered corporation or any of its subsidiaries relating to its business, wherever situate, and vouchers, securities and documents of a registered corporation.

Special  
examination

**186.**—(1) The Minister, on the Minister's own motion or upon an application by any interested party being made in writing, may appoint any person to make a special examination and audit of a registered corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

Evidence  
upon  
which inquiry  
to be  
ordered

(2) An application under subsection (1) shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.



**184** (1) Une fois l'an ou à l'autre intervalle que le surintendant juge approprié relativement à une compagnie donnée, le surintendant effectue l'examen des états relatifs à la situation et aux affaires de chacune des compagnies inscrites, ou le fait effectuer par son délégué. L'un d'eux mène alors l'enquête nécessaire afin de vérifier la situation de la compagnie et sa capacité de faire honneur à ses obligations au fur et à mesure de leur échéance. Il examine aussi les normes et procédés suivis par la direction et s'assure que la compagnie a suivi de saines pratiques commerciales et financières et a observé la présente loi et les règlements ainsi que les exigences, ordonnances, conditions et restrictions imposées, en vertu de ceux-ci, à l'inscription ou à la suite d'une enquête.

Inspection  
annuelle  
auprès des  
compagnies  
inscrites

(2) Lors de l'examen visé au paragraphe (1), le surintendant ou son délégué se rend à l'établissement principal de la compagnie. Il peut également, s'il le juge à propos, se présenter à toute succursale ou bureau de la compagnie.

Idem

(3) Si le surintendant est convaincu que l'examen effectué par le gouvernement du Canada, d'une province ou d'un territoire du Canada auprès d'une compagnie extraprovinciale inscrite est conforme aux normes qu'il observerait relativement à l'examen effectué aux termes du paragraphe (1), il peut l'adopter, en totalité ou en partie, comme s'il l'avait effectué lui-même aux termes du paragraphe (1).

Inspection  
effectuée par  
un autre gou-  
vernement

**185** Le directeur ou son délégué peut, durant les heures de bureau, faire l'examen des livres comptables de la compagnie inscrite ou de sa filiale qui sont reliés à ses activités commerciales où qu'elles s'exercent, et des livres comptables qui se trouvent en la possession de celles-ci, ainsi que de ses pièces comptables, valeurs mobilières et documents.

Examen par  
le directeur

**186** (1) Le ministre peut, de sa propre initiative ou sur demande écrite d'un intéressé, nommer une personne pour procéder à la vérification et à l'examen particuliers des livres comptables de la compagnie inscrite ainsi que de ses comptes et valeurs mobilières et pour faire enquête d'une manière générale sur la conduite de ses affaires.

Examen  
particulier

(2) La demande présentée en vertu du paragraphe (1) se fonde sur les éléments de preuve que peut exiger le ministre afin d'établir la nécessité de tenir l'enquête et de s'assurer que la demande ne s'inspire pas de motifs malveillants.

Éléments de  
preuve à  
l'appui de  
l'enquête



Security for  
costs

(3) The Minister may require an applicant under subsection (1) to give security for the payment of the costs of the inquiry to be given before appointing the special examiner.

Powers of  
examiner

R.S.O. 1980,  
c. 411

(4) A special examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies as if the examination, audit or inquiry were an inquiry under that Act.

Report to  
Minister

(5) Upon the conclusion of the examination, audit and inquiry, the special examiner shall make a report in writing to the Minister.

Payment of  
costs

(6) The Minister may, on the conclusion of an examination under this section, order the registered corporation or the party requesting the examination under subsection (1) to pay costs of such examination.

Inquiries  
by  
Superin-  
tendent

**187.**—(1) The Superintendent or Director may address any inquiries to a registered corporation or to the president, secretary or any other officer thereof and, in the case of an extra-provincial corporation, also to its agent under section 32, for the purpose of ascertaining the corporation's condition and ability to meet its obligations or as to the conduct of its business or as to complaints made by depositors, borrowers or by persons for whom the registered corporation acts in a fiduciary capacity and it is the duty of a registered corporation or officer so addressed to reply promptly in writing to any such inquiry.

Notice to  
directors

(2) The Superintendent or Director may require a registered corporation to forward a copy of any letter addressed to the registered corporation by the Superintendent or Director and any answer thereto to each director of the corporation and, upon such requirement being made, the secretary of the corporation shall include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement being made by the Superintendent or Director.

Extension  
of time

**188.** Where under this Act a registered corporation is required to provide or file with the Superintendent any return or document or other information, the Superintendent, in his or her absolute discretion and upon payment by the corporation of the prescribed fee, may, before or after the last day for making the submission, extend the time therefor for such period not exceeding sixty days as he or she considers appropriate.

(3) Avant de désigner un enquêteur, le ministre peut exiger que l'auteur d'une demande présentée en vertu du paragraphe (1) fournisse un cautionnement pour les frais de l'enquête.

Cautionnement pour les frais

(4) L'enquêteur peut assigner des témoins à comparaître, recueillir des témoignages sous serment, et, de façon générale, pour les fins de l'examen, de la vérification et de l'enquête, exerce les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique comme s'il s'agissait d'une enquête tenue en vertu de cette loi.

Attributions de l'enquêteur

L.R.O. 1980, chap. 411

(5) Au terme de l'examen, de la vérification et de l'enquête, l'enquêteur présente au ministre son rapport écrit.

Rapport au ministre

(6) Le ministre peut, une fois terminé l'examen mené en vertu du présent article, enjoindre à la compagnie inscrite ou à la personne qui en a fait la demande aux termes du paragraphe (1) d'en acquitter les frais.

Acquittement des frais

**187** (1) Le surintendant ou le directeur peuvent adresser une demande de renseignements à la compagnie inscrite ou à son président, son secrétaire ou un autre de ses dirigeants et, dans le cas de la compagnie extraprovinciale, également à son mandataire visé à l'article 32. Cette demande peut se faire afin de vérifier la situation de la compagnie, sa capacité de faire honneur à ses obligations ou la conduite de ses affaires, ou peut porter sur les plaintes formulées par les déposants, les emprunteurs et les personnes qu'elle représente en qualité de fiduciaire. Il incombe à la compagnie inscrite ou au dirigeant visé de répondre promptement par écrit à la demande.

Demande de renseignements par le surintendant

(2) Le surintendant ou le directeur peuvent exiger que la compagnie inscrite fasse parvenir à chacun de ses administrateurs une copie de chacune des lettres qu'ils lui ont adressées ainsi que de la réponse donnée, le cas échéant. Dans ce cas, le secrétaire de la compagnie annexe ces documents au procès-verbal de la réunion du conseil d'administration qui suit immédiatement la réception de la demande du surintendant ou du directeur.

Avis aux administrateurs

**188** Le surintendant peut, à son entière discrétion et moyennant le paiement par la compagnie inscrite des droits prescrits, avant ou après la date limite, proroger pour une période qu'il juge appropriée et qui ne dépasse pas soixante jours le délai fixé pour le dépôt par la compagnie inscrite des rapports, documents ou autres renseignements exigés aux termes de la présente loi.

Prorogation du délai

Notice as  
proof

**189.**—(1) A notice published in *The Ontario Gazette* over the name of the Superintendent is, without further proof, *prima facie* proof of the facts set forth in the notice.

Certificate as  
to  
registration

(2) A certificate of the Superintendent that on a stated day a body corporate mentioned therein was or was not registered or was registered subject to terms, conditions or restrictions, or that the registration of a corporation was revoked on a stated day, is *prima facie* proof of the facts stated in the certificate.

Certified  
copies

(3) Copies of, or extracts from, any book, record, instrument or document in the office of the Superintendent or of or from any instrument or document issued under this Act, if certified by the Superintendent to be true copies or extracts, shall be held as authentic and are *prima facie* proof of and have the same legal effect as the original.

Agreements  
with other  
Governments

**190.** The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada or of any province or territory in Canada, or the appropriate authority thereof, related to the administration and enforcement of this Act or of comparable legislation of any such other jurisdiction and, without restricting the generality of the foregoing, any such agreement may provide for the provision and exchange of information.

Capacity of  
Superin-  
tendent

**191.**—(1) The Superintendent may do all things necessary or incidental to the administration and enforcement of this Act and the regulations and, in particular, but without limiting the generality of the foregoing, may,

- (a) receive written undertakings from corporations and enter into written agreements with corporations; and
- (b) enter into written agreements with third parties related to the administration of this Act and the regulations and give indemnities to third parties related to such activities as are authorized under such agreements.

Annual  
report

(2) The Superintendent shall, not later than the 31st day of August in each year, submit to the Minister a report on the activities of the Superintendent's office for the twelve-month period ending on the preceding 31st day of March and the Minister shall then lay the report before the Assembly if it is in session or, if not, at its next session.

**189** (1) L'avis publié dans la *Gazette de l'Ontario* et sur lequel figure le nom du surintendant fait foi *prima facie* de son contenu sans qu'une autre preuve soit nécessaire. L'avis fait foi

(2) Fait foi *prima facie* de son contenu, le certificat du surintendant précisant qu'à une date donnée, la personne morale qui y est mentionnée était inscrite ou non, que son inscription était subordonnée à certaines conditions et restrictions ou a été révoquée. Certificat d'inscription

(3) Les copies ou extraits certifiés conformes par le surintendant et tirés de livres comptables, de dossiers, d'actes ou de documents conservés à son bureau de même que d'actes ou de documents délivrés aux termes de la présente loi sont tenus pour authentiques, font preuve *prima facie* de l'original et produisent les mêmes effets juridiques. Copies certifiées conformes

**190** Le ministre peut, avec l'approbation du lieutenant-gouverneur en conseil, conclure des accords avec le gouvernement du Canada, d'une province ou d'un territoire du Canada ou avec l'organisme qui les représente, concernant l'application et l'exécution de la présente loi ou de la loi correspondante de l'autre compétence visée. Ces accords peuvent prévoir notamment que des renseignements seront fournis et échangés. Accords conclus avec d'autres gouvernements

**191** (1) Le surintendant peut prendre toute mesure essentielle ou accessoire relative à l'application et à l'exécution de la présente loi et des règlements, et notamment : Pouvoirs du surintendant

- a) accepter des engagements écrits souscrits de la part de compagnies et conclure avec elles des conventions écrites;
- b) conclure avec des tiers des conventions écrites reliées à l'application de la présente loi et des règlements, et leur accorder des garanties d'indemnité relatives aux activités permises aux termes de ces conventions.

(2) Le surintendant présente au ministre, au plus tard le 31 août de chaque année, un rapport concernant les activités du bureau du surintendant pour la période de douze mois se terminant le 31 mars précédent. Le ministre présente alors le rapport à l'Assemblée si celle-ci siège, sinon, au cours de la session suivante. Rapport annuel



## PART XII

## ENFORCEMENT AND CIVIL REMEDIES

Director's  
orders

**192.**—(1) Where, in the opinion of the Director, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with a voluntary compliance program under section 198;
- (d) does not comply with any undertaking given under this Act;
- (e) constitutes a practice which might prejudice or adversely affect the interests of depositors or, if the corporation is a trust corporation, of persons for whom the corporation acts in a fiduciary capacity,

the Director may give notice to the registered corporation or other person of an intention to order the corporation or other person,

- (f) to cease doing any act or to cease pursuing any course of conduct identified by the Director; or
- (g) to perform such acts as in the opinion of the Director are necessary to remedy the situation.

Hearing

(2) The corporation or other person, by written notice served on the Director within fifteen days after the service of the notice on the corporation or other person under subsection (1), may require a hearing before the Director.

Temporary  
order

(3) Notwithstanding subsection (2), where in the opinion of the Director the interests of the depositors or the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Director may make a temporary order as described in clause (1) (f) or (g) which shall take effect immediately on its making and which shall become permanent on the fifteenth day after its making unless within that time a hearing before the Director is requested.



## PARTIE XII

## EXÉCUTION ET RECOURS DE NATURE CIVILE

**192** (1) Lorsque, de l'avis du directeur, une compagnie inscrite ou une autre personne commet un acte ou suit une ligne de conduite : Décision

- a) qui ne sont pas conformes à la présente loi ou aux règlements;
- b) dont la poursuite risque vraisemblablement de créer une situation qui ne soit pas conforme à la présente loi ou aux règlements;
- c) qui ne sont pas conformes à un programme d'adhésion volontaire visé à l'article 198;
- d) qui ne sont pas conformes à un engagement pris aux termes de la présente loi;
- e) qui risquent de léser les droits des déposants ou, dans le cas d'une compagnie de fiducie, des personnes qu'elle représente à titre de fiduciaire,

celui-ci peut envoyer à la compagnie inscrite ou à l'autre personne un avis de son intention de prendre une ordonnance lui enjoignant :

- f) de mettre fin aux actes ou à la ligne de conduite que le directeur précise;
- g) de prendre les mesures qui, de l'avis du directeur, s'imposent afin de remédier à la situation.

(2) La compagnie ou l'autre personne peut, au moyen d'un avis écrit signifié au directeur dans les quinze jours de la signification de l'avis visé au paragraphe (1), exiger la tenue d'une audience devant le directeur. Audience

(3) Malgré le paragraphe (2), dans le cas où, de l'avis du directeur, tout retard apporté à la prise de l'ordonnance permanente risque de porter atteinte aux droits des déposants ou du public, le directeur peut prendre une ordonnance provisoire en vertu des alinéas (1) f) ou g). L'ordonnance prend effet dès qu'elle est prise et devient permanente le quinzième jour suivant, sauf si une demande d'audience devant le directeur est présentée au cours de ce délai. Ordonnance provisoire

When order  
may be made

(4) Where no hearing is requested within the time set out in subsection (2) or (3), or where a hearing is held and the Director is of the opinion that an order described in clause (1) (f) or (g) should be made, the Director may make a permanent order under either of those clauses which shall take effect immediately on its making or at such later date as may be set out in the order.

Hearing

(5) A request for a hearing under subsection (3) shall be in writing and served on the Director.

Extension  
of order

(6) Where a hearing is requested under subsection (3), the Director may extend the temporary order until the hearing is concluded or any appeal from the hearing is concluded and the order is confirmed, varied or revoked.

Copy to  
directors

(7) Where an order is made under this section, a copy of the order shall be sent to each director of the affected corporation.

Modification  
or  
revocation

(8) The Director, after giving the corporation or other person named in the order an opportunity to be heard, may modify or revoke an order made under this section.

Appeals

**193.**—(1) A party to a hearing before the Director, within fifteen days after the receipt of the Director's decision, may appeal the decision to an appeal panel by serving a notice in writing of the appeal on the Superintendent who shall advise the Minister forthwith of the request.

Idem

(2) An appeal shall be based on such evidence as may be presented to the appeal panel, and the panel, upon hearing an appeal, may confirm, vary or revoke the order that is the subject of the appeal.

Superin-  
tendent  
approvals

**194.**—(1) Where under this Act there is provision for an approval or consent of the Superintendent, he or she may give or refuse the approval or consent and the approval or consent may be subject to such terms and conditions as the Superintendent may impose.

Final decision

(2) A decision by the Superintendent under this Act shall be in writing and is not subject to appeal to an appeal panel.

Hearing

(3) Before refusing an approval or consent or before granting an approval or consent subject to terms and conditions, the Superintendent shall give the registered corporation notice of his or her intention and the registered corporation may require a hearing before the Superintendent.

(4) Le directeur peut prendre une ordonnance permanente en vertu des alinéas (1) f) ou g), s'il n'est pas demandé d'audience dans le délai imparti au paragraphe (2) ou (3), ou si cette audience se tient et que le directeur est d'avis qu'il faut prendre cette ordonnance. L'ordonnance prend effet dès qu'elle est prise ou à la date ultérieure qui y est précisée.

Moment de rendre la décision

(5) La demande d'audience faite en vertu du paragraphe (3) est présentée par écrit et signifiée au directeur.

Audience

(6) Le directeur peut, lorsqu'une audience est demandée aux termes du paragraphe (3), prolonger les effets de l'ordonnance provisoire tant que l'audition n'est pas terminée ou qu'une décision pour confirmer, modifier ou révoquer l'ordonnance n'a pas été rendue en appel.

Prolongation des effets de l'ordonnance

(7) Une copie de l'ordonnance prise aux termes du présent article est envoyée à chacun des administrateurs de la compagnie visée.

Copies aux administrateurs

(8) Après avoir donné à la compagnie ou à l'autre personne l'occasion de se faire entendre, le directeur peut modifier ou révoquer l'ordonnance prise aux termes du présent article.

Modification ou révocation

**193** (1) Une partie à l'audience tenue devant le directeur peut, dans les quinze jours de la réception de la décision du directeur, en interjeter appel devant un comité d'appel en signifiant au surintendant un avis écrit d'appel. Celui-ci en notifie le ministre sans délai.

Appels

(2) L'appel est fondé sur la preuve présentée au comité d'appel. Ce dernier peut ensuite confirmer, modifier ou révoquer l'ordonnance qui en fait l'objet.

Idem

**194** (1) Dans les cas prévus par la présente loi, le surintendant peut refuser ou accorder son consentement ou son approbation, qui peuvent alors être assortis des conditions qu'il impose.

Approbation, etc., par le surintendant

(2) La décision rendue par le surintendant aux termes de la présente loi est présentée par écrit et ne peut faire l'objet d'un appel devant un comité d'appel.

Décision définitive

(3) Avant de refuser ou d'accorder son consentement ou son approbation, et avant de les accorder assortis de conditions, le surintendant avise la compagnie inscrite de son intention. Elle peut exiger la tenue d'une audience devant le surintendant.

Audience

Power of  
Superin-  
tendent

(4) The Superintendent, having given the registered corporation an opportunity to be heard, may confirm, revoke or vary any approval, consent or refusal.

Restriction  
on borrowing

(5) The Superintendent, having given a registered corporation an opportunity to be heard, may reduce to any amount the amount that it may receive by way of deposit or borrow in the case of a trust corporation or that it may borrow, in the case of a loan corporation and the amount may be an amount that is less than ten times its capital base.

Director may  
be party

**195.** The Director is entitled to attend and to be represented by counsel at any hearing before an appeal panel.

Transcript

**196.** Oral evidence taken before the Director, the Superintendent or an appeal panel may be recorded and, if recorded, copies of a transcript thereof shall be furnished upon request upon the same terms and for the same fees as in the Supreme Court.

Hearings *in  
camera*

**197.** A hearing before the Director, the Superintendent or an appeal panel, at the discretion of the Director, the Superintendent or the chairman of the panel, as the case may be, may be heard *in camera* or in public.

Voluntary  
compliance  
program

**198.**—(1) Where, in the opinion of the Superintendent, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with any undertaking given under this Act; or
- (d) constitutes a practice that might prejudice or adversely affect the interests of depositors or persons for whom the registered corporation, if a trust corporation, acts in a fiduciary capacity,

the registered corporation or other person may enter into a program of voluntary compliance related to any act or course of conduct described in clause (a), (b), (c) or (d).

(4) Après avoir donné à la compagnie inscrite l'occasion de se faire entendre, le surintendant peut confirmer, révoquer ou modifier l'approbation, le consentement ou le refus.

Pouvoirs du  
surintendant

(5) Après avoir donné à la compagnie inscrite l'occasion de se faire entendre, le surintendant peut réduire à un montant quelconque, même à un montant inférieur à dix fois l'apport en capital de la compagnie, le montant qu'elle peut recevoir à titre de dépôts ou qu'elle peut emprunter, dans le cas d'une compagnie de fiducie inscrite, ou le montant qu'elle peut emprunter, dans le cas d'une compagnie de prêt inscrite.

Limitation  
d'emprunts

**195** Le directeur a le droit d'assister en personne et d'être représenté par un avocat lors de l'audience devant un comité d'appel.

Le directeur  
peut être  
partie

**196** Les témoignages oraux reçus par le directeur, le surintendant ou un comité d'appel peuvent être enregistrés. Dans ce cas, une copie de leur transcription est remise sur demande, selon les mêmes modalités et moyennant le paiement des mêmes droits qu'à la Cour suprême.

Transcription

**197** L'audience tenue devant le directeur, le surintendant ou un comité d'appel peut avoir lieu à huis clos ou en public, à la discrétion du directeur, du surintendant ou du président du comité d'appel, selon le cas.

Audiences à  
huis clos

**198** (1) Lorsque, de l'avis du surintendant, une compagnie inscrite ou une autre personne commet un acte ou suit une ligne de conduite :

Programme  
d'adhésion  
volontaire

- a) qui ne sont pas conformes à la présente loi ou aux règlements;
- b) dont la poursuite risque vraisemblablement de créer une situation qui ne soit pas conforme à la présente loi ou aux règlements;
- c) qui ne sont pas conformes à un engagement pris aux termes de la présente loi;
- d) qui risquent de léser les droits des déposants ou, dans le cas d'une compagnie de fiducie, des personnes qu'elle représente à titre de fiduciaire,

la compagnie inscrite ou l'autre personne peut souscrire à un programme d'adhésion volontaire concernant un acte ou une ligne de conduite visés aux alinéas a), b), c) ou d).

(2) Le programme d'adhésion volontaire visé au présent article est dressé par écrit et lie la compagnie inscrite ou l'autre personne dès son approbation par le surintendant.

Idem



Idem

(2) A voluntary compliance program under this section shall be in writing and shall bind the registered corporation or other person from the time it is approved by the Superintendent.

Powers of  
Director not  
affected

(3) Where a voluntary compliance program has been entered into, the Director shall not be prevented from making orders against the registered corporation or other person,

- (a) on matters not covered by the program;
- (b) where the program is not complied with, on matters covered in the voluntary compliance program;
- (c) if there has been a deterioration in the condition of the registered corporation; or
- (d) on matters covered in the program where all the facts related to the matter covered by the program were not known by the Superintendent at the time the program was entered into.

Modification  
of program

(4) The Superintendent on the request of a registered corporation may approve the alteration of a voluntary compliance program entered into under this section.

Cancellation  
of  
registration

**199.**—(1) Where,

- (a) a registered corporation or other person has not complied with an order of the Director or of an appeal panel;
- (b) a registered corporation or other person has breached an order of the court made under section 210;
- (c) grounds exist for the possession and control of a registered corporation by the Superintendent; or
- (d) a registered corporation's authority to carry on business has been cancelled or suspended or terms or conditions have been imposed on its authority to carry on business under a law of Canada or of any province or territory of Canada,

the Director may revoke the registration of the corporation or impose terms, conditions or restrictions on the registration of the corporation.

(3) La souscription de la compagnie inscrite ou de l'autre personne au programme d'adhésion volontaire n'empêche pas le directeur de prendre à l'encontre de ces personnes une ordonnance :

Aucune incidence sur les pouvoirs du directeur

- a) dont l'objet ne figure pas au programme;
- b) dont l'objet figure au programme lorsque ce dernier n'a pas été observé;
- c) lorsqu'il y a eu détérioration de la situation de la compagnie inscrite;
- d) dont l'objet figure au programme si tous les faits relatifs à l'objet du programme n'étaient pas connus du surintendant au moment de la souscription de la compagnie au programme.

(4) À la demande de la compagnie inscrite, le surintendant peut donner son approbation à la modification apportée au programme d'adhésion volontaire auquel a souscrit la compagnie aux termes du présent article.

Modification au programme

**199** (1) Le directeur peut radier l'inscription de la compagnie ou assortir son inscription de conditions et de restrictions, si :

Radiation de l'inscription

- a) la compagnie ou une autre personne ne s'est pas conformée à l'ordonnance du directeur ou du comité d'appel;
- b) la compagnie ou une autre personne ne s'est pas conformée à l'ordonnance du tribunal rendue en vertu de l'article 210;
- c) des motifs justifient une prise de possession et de contrôle par le surintendant;
- d) l'autorisation d'exercer ses activités commerciales a été résiliée, interrompue ou assortie de conditions en vertu d'une loi du Canada, d'une province ou d'un territoire du Canada.

(2) Le directeur signifie à la compagnie avis de son intention de prendre les mesures visées au paragraphe (1).

Avis d'intention de prendre des mesures

(3) Les paragraphes 192 (2) et (3) s'appliquent dans le cas de signification de l'avis visé au paragraphe (2).

Audience

Notice of  
intention

(2) Where the Director proposes to act under subsection (1), the Director shall serve a notice of the intention to act on the corporation.

Hearing

(3) Subsections 192 (2) and (3) apply where a notice is served under subsection (2).

Corporation  
to cease  
business  
except  
for winding  
up  
purposes

(4) After the revocation of a registration under this section, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as it is necessary for the winding up of its business in Ontario, but any liability incurred by it may be enforced against it as if such revocation had not taken place.

Notice on  
change of  
status

**200.**—(1) On the revocation of the registration of any corporation, or the modification of any of the terms, conditions or restrictions on its registration, the Superintendent shall cause notice in writing thereof to be delivered to it.

Idem

(2) Where the corporation has had its registration revoked, the notice shall be published by the Superintendent in *The Ontario Gazette*.

Orders  
imposing  
limitations  
and  
conditions  
or for taking  
possession  
and control

**201.**—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council, without holding a hearing, may order,

- (a) that a corporation's registration shall be subject to such terms, conditions and restrictions as are set out in the order; or
- (b) that the Superintendent take possession and control of the assets of a provincial corporation,

where, in the opinion of the Lieutenant Governor in Council, one or more of the following has occurred:

1. There has been, on or after the 21st day of December, 1982, a transfer or issue of shares to which subsection 63 (1) or (5) applies and consent has not been obtained under section 63 or a predecessor thereof.
2. The corporation has defaulted on payment of any of its liabilities.
3. The corporation is not complying with this Act or the regulations.
4. The corporation's assets are not satisfactorily accounted for.

(4) Sauf dans la mesure nécessaire à la liquidation de son entreprise en Ontario, la compagnie dont l'inscription est radiée cesse ses opérations et ses activités commerciales dans cette province, à moins d'être réinscrite. Elle demeure toutefois responsable de ses obligations, dont l'exécution peut être exercée contre elle comme si la radiation n'avait pas eu lieu.

Cessation des activités commerciales, sauf le cas de liquidation

**200** (1) Le surintendant fait remettre à la compagnie inscrite dont l'inscription a été radiée ou dont les conditions et restrictions d'inscription ont été modifiées un avis écrit à cet effet.

Avis de modification de statut

(2) Le surintendant publie dans la *Gazette de l'Ontario* l'avis de radiation de l'inscription de la compagnie.

Idem

**201** (1) Malgré toute disposition contraire de la présente loi, le lieutenant-gouverneur en conseil peut par décret, sans tenir d'audience :

Imposition de limitations et conditions, prise de possession et contrôle

- a) assortir l'inscription de la compagnie des conditions et restrictions qui y sont énoncées;
- b) enjoindre au surintendant de prendre possession et d'assumer le contrôle des biens de la compagnie provinciale,

lorsqu'à son avis, l'une ou plusieurs des situations suivantes se sont produites :

1. Le 21 décembre 1982 ou après cette date, il y a eu transfert ou émission d'actions auxquels s'applique le paragraphe 63 (1) ou (5), sans l'obtention préalable du consentement visé à l'article 63 ou à une disposition que cet article remplace.
2. La compagnie a fait défaut d'acquitter tout ou partie de son passif.
3. La compagnie ne se conforme pas à la présente loi ou aux règlements.
4. Il n'est pas suffisamment rendu compte de l'actif de la compagnie.

5. The corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors.
6. There exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's depositors, creditors or shareholders.

Delivery of  
order

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Superintendent shall deliver a copy of the order to an officer of the registered corporation.

Order final  
and binding

(3) An order of the Lieutenant Governor in Council under subsection (1) shall take effect immediately and the order is final and binding and no such order or any order made under subsection (5) confirming or varying such order shall be stayed, varied or set aside by any court.

Appointment  
of appraiser

(4) For the purposes of this section, the Lieutenant Governor in Council may appoint such persons as the Lieutenant Governor in Council considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities.

L.G. in C.  
may confirm,  
vary or  
rescind  
orders

(5) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order made under subsection (1), the Lieutenant Governor in Council, by order, may confirm, vary or rescind the whole or any part of such order and an order under this subsection is final and binding.

Saving

(6) Nothing in this section affects the right of the Lieutenant Governor in Council to vary or rescind, at any time, an order made under subsection (1).

Power of  
Superin-  
tendent  
upon taking  
control

**202.**—(1) If so ordered by the Lieutenant Governor in Council under section 201, the Superintendent shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in the Superintendent's opinion should be taken toward its rehabilitation or, where an order is made under paragraph 1 of subsection 201 (1), its continued operation, and for such purposes the Superintendent has all the powers of the board of directors of the corporation, and without limiting the generality of the foregoing, the Superintendent may,



5. L'actif de la compagnie, eu égard à toutes les circonstances, ne peut suffire à protéger ses déposants.
6. Une situation ou des pratiques qui ont cours au sein de la compagnie portent ou risquent de porter atteinte à l'intérêt du public ou à l'intérêt des déposants, créanciers ou actionnaires de la compagnie.

(2) Le surintendant remet copie du décret du lieutenant-gouverneur en conseil pris en vertu du paragraphe (1) à l'un des dirigeants de la compagnie inscrite.

Remise du décret

(3) Le décret du lieutenant-gouverneur en conseil pris en vertu du paragraphe (1) prend effet immédiatement, est définitif et a force exécutoire. Aucun tribunal ne doit suspendre, modifier ou annuler ce décret ni celui pris en vertu du paragraphe (5).

Le décret a force exécutoire

(4) Pour l'application du présent article, le lieutenant-gouverneur en conseil peut nommer le personnel qu'il juge nécessaire aux fins d'évaluer l'actif et le passif de la compagnie et de faire rapport sur sa situation de même que sur sa capacité d'acquitter ou non son passif.

Estimateurs

(5) Sur pétition déposée auprès du greffier du Conseil des ministres par une partie ou une personne intéressée dans les soixante jours du décret pris en vertu du paragraphe (1), le lieutenant-gouverneur en conseil peut, par décret, confirmer, modifier ou annuler celui-ci en totalité ou en partie. Le décret pris en vertu du présent paragraphe est définitif et a force exécutoire.

Le lieutenant-gouverneur en conseil peut confirmer, modifier ou annuler les décrets

(6) Le présent article n'a pas pour effet de limiter le droit du lieutenant-gouverneur en conseil de modifier ou d'annuler le décret pris aux termes du paragraphe (1).

Exception

**202** (1) Lorsque le lieutenant-gouverneur en conseil le décrète en vertu de l'article 201, le surintendant prend possession et assume le contrôle des biens de la compagnie provinciale. Il gère alors l'entreprise et prend les mesures qui, à son avis, s'imposent en vue du redressement de la situation de la compagnie ou, dans le cas d'un décret pris en vertu de la disposition 1 du paragraphe 201 (1), en vue de la poursuite de l'exploitation de la compagnie. À ces fins, le surintendant possède tous les pouvoirs du conseil d'administration de la compagnie et peut notamment :

Pouvoirs du surintendant qui assume le contrôle

- (a) exclude the directors, officers, servants and agents of the corporation from the property and business of the corporation; and
- (b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the income of the corporation and exercise all the powers of the corporation.

Application  
to court

R.S.O. 1980,  
c. 95

(2) While the Superintendent has possession and control of the assets of a provincial corporation under this section, the Superintendent may apply to the court for an order for the winding up of the corporation under Part VI of the *Corporations Act*.

Appointment  
of managers

(3) Where the Superintendent is in possession and control of the assets of a provincial corporation and is conducting its business, he or she may appoint one or more persons to manage and operate the business of the corporation, and,

- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an officer or employee of the Ministry, shall be fixed by the Superintendent.

Relinquishing  
control

(4) Whenever the Lieutenant Governor in Council believes that a corporation whose assets are in the possession and control of the Superintendent meets the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Where  
rehabilitation  
efforts futile

(5) If the Lieutenant Governor in Council considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Superintendent would be futile, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Expenses of  
proceedings

(6) The expenses of the Superintendent incurred in proceedings under this section or section 200 or 201 shall be paid,

- a) exclure les dirigeants, administrateurs, préposés et mandataires de la compagnie de ses locaux et de ses affaires;
- b) gérer et mener les opérations de la compagnie et, au nom de cette dernière, conserver, maintenir, réaliser, accroître ses biens, en disposer, en percevoir les revenus et exercer tous les pouvoirs de la compagnie.

(2) Pendant que le surintendant a la possession et le contrôle de l'actif de la compagnie provinciale en vertu du présent article, il peut présenter au tribunal une requête en vue d'obtenir une ordonnance de liquidation de la compagnie en vertu de la partie VI de la *Loi sur les compagnies et associations*.

Requête au tribunal

L.R.O. 1980, chap. 95

(3) Si le surintendant a la possession et le contrôle de l'actif de la compagnie provinciale et gère l'entreprise de celle-ci, il peut nommer une ou plusieurs personnes aux fins de gérer et d'exploiter l'entreprise. Dans ce cas :

Nomination de gestionnaires

- a) chacune des personnes désignées est le délégué du surintendant;
- b) le surintendant fixe leur rémunération, sauf celle d'un employé du ministère.

(4) Si le lieutenant-gouverneur en conseil est d'avis que la compagnie dont la possession et le contrôle de l'actif sont présentement dévolus au surintendant satisfait aux exigences de la présente loi et que celle-ci est en mesure de gérer son entreprise et de reprendre la possession et le contrôle de son actif, il peut, par écrit, enjoindre à ce dernier de s'en dessaisir en faveur de la compagnie. Les pouvoirs du surintendant en vertu du présent article prennent alors fin à compter de la date précisée dans cette directive.

Remise du contrôle

(5) Si le lieutenant-gouverneur en conseil est d'avis que serait vaine toute nouvelle tentative de redressement de la situation de la compagnie dont la possession et le contrôle de l'actif sont présentement dévolus au surintendant, il peut, par écrit, enjoindre à ce dernier de s'en dessaisir en faveur de la compagnie. Les pouvoirs du surintendant en vertu du présent article prennent alors fin à compter de la date précisée dans cette directive.

Vaines tentatives de redressement

(6) Les frais engagés par le surintendant relativement aux mesures prises aux termes du présent article ou des articles 200 ou 201 sont payés :

Frais

- (a) by the registered corporation; or
- (b) where the corporation that is the subject of the proceeding,
  - (i) is a loan corporation and the corporation cannot pay the full cost of the proceedings, by all registered loan corporations, or
  - (ii) is a trust corporation and the trust corporation cannot pay the full cost of proceedings, by all registered trust corporations,

and, where clause (b) applies, the share of each registered corporation shall be in the same proportion as its total assets in its last preceding fiscal year bears to the total assets of all loan corporations or trust corporations, as the case may be, in the last preceding fiscal year of each.

Advisory  
committee

(7) The registered corporations required by clause (6) (b) to bear the expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Superintendent.

Application  
to court

**203.**—(1) Notwithstanding any other provision of this Act, where the Superintendent has taken possession and control of a registered corporation under section 201, the Superintendent may apply to the High Court of Justice for an order,

- (a) authorizing some other person to conduct the business of the corporation on such terms and conditions as the court thinks fit;
- (b) authorizing and directing the sale of the assets of the corporation in whole or in part notwithstanding any provision of the *Bulk Sales Act*;
- (c) appointing interim or permanent substitute trustees in respect of all or any part of the fiduciary obligations and duties of the corporation;
- (d) authorizing or directing such other action as the court thinks appropriate and in the best interests of the depositors, persons for whom the corporation acts in a fiduciary capacity, the creditors and the public; or

R.S.O. 1980,  
c. 52

- a) par la compagnie inscrite;
- b) si la compagnie qui fait l'objet des mesures :
  - (i) est une compagnie de prêt qui ne peut assumer seule la totalité des frais, par toutes les compagnies de prêt inscrites,
  - (ii) est une compagnie de fiducie qui ne peut assumer seule la totalité des frais, par toutes les compagnies de fiducie inscrites.

Dans le cas d'application de l'alinéa b), la quote-part de chaque compagnie inscrite est proportionnelle au total de son actif pour son dernier exercice, par rapport au total de l'actif de toutes les compagnies de prêt ou compagnies de fiducie, selon le cas, lors de l'exercice précédent de chacune d'elles.

(7) Les compagnies inscrites qui sont tenues, aux termes de l'alinéa (6) b), de supporter des frais engagés par le surintendant peuvent nommer un comité d'au plus six membres afin de conseiller celui-ci sur les questions reliées au redressement de la situation de la compagnie dont la possession et le contrôle de l'actif lui sont dévolus.

Comité consultatif

**203** (1) Malgré toute disposition contraire de la présente loi, lorsque le surintendant a pris la possession et le contrôle de la compagnie inscrite en vertu de l'article 201, il peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance ayant pour effet :

Requête au tribunal

- a) d'autoriser une autre personne à gérer l'entreprise de la compagnie aux conditions que le tribunal estime pertinentes;
- b) d'autoriser et de surveiller la vente de la totalité ou d'une partie des biens de la compagnie, malgré les dispositions de la *Loi sur la vente en bloc*;
- c) de nommer des représentants suppléants, provisoires ou permanents, aux fins d'acquitter la totalité ou une partie des obligations fiduciaires de la compagnie;
- d) d'autoriser ou d'ordonner d'autres mesures que le tribunal juge pertinents et dans l'intérêt véritable des déposants, des personnes que la compagnie représente à titre de fiduciaire, de ses créanciers et du public;

L.R.O. 1980,  
chap. 52



- (e) staying any civil proceedings against the corporation while the Superintendent is in possession and control of the corporation.

Substituted  
fiduciary

(2) Where the High Court of Justice has made an order under clause (1) (c), the fiduciary duties vest in, bind and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary was originally named as fiduciary.

Orders, etc.,  
binding on  
successors  
and  
assignees

**204.** Where an order or approval is made or given under this Act or a term, condition or restriction is imposed on its registration, it is binding on every successor or assignee of the corporation or other person to whom it is directed.

Over-valued  
property

**205.**—(1) If in the opinion of the Director with respect to a registered corporation or its subsidiaries, it appears that,

- (a) the value placed upon the real estate owned by the corporation or any of its subsidiaries or any parcel thereof is too great;
- (b) the amount secured by mortgage upon any parcel of real estate, together with interest due and accrued thereon is greater than the lending value of the parcel, or that the parcel is not sufficient security for the loan and interest; or
- (c) the market value of any other investment is less than the amount shown in the books of the corporation or any of its subsidiaries,


the Director may require the corporation to secure an appraisal of such assets by one or more competent valuers or the Director may procure such appraisal at the expense of the corporation.

Idem

(2) If following an appraisal under subsection (1), it appears that the value of the asset is less than the amount at which it is carried on the books of the registered corporation or any of its subsidiaries or that the value is not adequate security for the loan and interest, the Director may order that the appraised value be reflected in calculations made for the purposes of this Act and the regulations.



Idem

(3) An order of the Director under subsection (2) shall be noted in the corporation's financial statements for the year in which the order is made. 

- e) de suspendre toute poursuite civile engagée contre la compagnie pendant que le surintendant a la possession et le contrôle de l'actif.

(2) Si la Haute Cour rend une ordonnance aux termes de l'alinéa (1) c), les obligations fiduciaires passent au représentant suppléant. Celles-ci sont susceptibles d'exécution contre lui dans la même mesure que s'il était le représentant original.

Représentant  
suppléant

**204** L'ordonnance rendue ou l'approbation accordée aux termes de la présente loi, ainsi que les conditions et restrictions dont est assortie son inscription, lient les successeurs et cessionnaires de la compagnie ou de l'autre personne à qui celles-ci s'adressent.

Ordonnances,  
etc., lient les  
successeurs et  
cessionnaires

**205** (1) Le directeur peut exiger que la compagnie fasse appel à un ou plusieurs estimateurs compétents aux fins d'évaluer les biens mentionnés ci-après, s'il est d'avis que :

Surévaluation  
d'un bien

- a) la valeur imputée aux biens immeubles, ou à un bien immeuble particulier, dont la compagnie ou l'une de ses filiales sont propriétaires est trop élevée;
- b) la somme garantie par hypothèque grevant un bien immeuble en faveur de la compagnie ou l'une de ses filiales, majorée des intérêts échus et courus, dépasse sa valeur hypothécable, ou que ce bien immeuble ne constitue pas une sûreté suffisante pour garantir le prêt et les intérêts;
- c) la valeur marchande d'un autre placement est inférieure au montant qui figure aux livres comptables de la compagnie ou de l'une de ses filiales.

Le directeur peut également procéder à cette estimation aux frais de la compagnie.

(2) S'il appert, d'après l'évaluation effectuée aux termes du paragraphe (1), que la valeur d'un bien est inférieure à celle qui est indiquée aux livres comptables de la compagnie inscrite ou de l'une de ses filiales, ou que cette valeur ne constitue pas une sûreté suffisante pour garantir le prêt et les intérêts, le directeur peut ordonner que les calculs faits en application de la présente loi et des règlements reflètent la valeur estimative.

Idem

(3) L'ordre pris par le directeur aux termes du paragraphe (2) figure aux états financiers de la compagnie pour l'exercice au cours duquel le directeur prend l'ordre.

Idem

Investigation

**206.**—(1) Where upon a statement made under oath it appears probable to the Superintendent that any corporation or other person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act, and in the order shall determine and prescribe the scope of the investigation.

Scope of investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or corporation in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the corporation or other person and any property, assets or things owned, acquired or alienated in whole or in part by the corporation or other person or by any person or corporation acting on behalf of or as agent for the person or corporation; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the corporation or other person and the relationship that may at any time exist or have existed between the corporation or other person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to summon witnesses and require production

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or corporation or any officer or employee thereof from the operation of this section.

**206** (1) Si, aux termes d'une déclaration sous serment, il semble probable au surintendant qu'une compagnie ou une autre personne a contrevenu aux dispositions de la présente loi ou des règlements, celui-ci peut, au moyen d'une ordonnance, mandater une personne pour mener l'enquête qu'il juge opportune pour l'application et l'exécution de la présente loi. Le mandat précise la portée de cette enquête.

Enquête

(2) Pour les fins de l'enquête visée au présent article, la personne mandatée à cette fin peut faire enquête et procéder à l'examen :

Portée de l'enquête

- a) des affaires de la personne ou de la compagnie qui en fait l'objet ainsi que des livres comptables, papiers, documents, de la correspondance, des communications, négociations, opérations, enquêtes, prêts, emprunts de même que des paiements effectués à la compagnie ou à l'autre personne, par ces dernières ou pour leur compte, ou qui sont reliés ou ont trait à celles-ci. Il en est de même des autres biens, des éléments d'actif ou des choses dont elles-mêmes, ou leurs mandataires pour leur compte, sont propriétaires ou que ceux-ci ont acquis ou aliénés en totalité ou en partie;
- b) de l'actif ainsi que du passif, des dettes, engagements et obligations de la compagnie ou de l'autre personne, de leur situation financière ou autre, à n'importe quel moment. Il en est de même des rapports qui peuvent exister ou avoir existé à n'importe quel moment entre celles-ci et une autre personne en raison de placements, d'acquisitions, de commissions promises, assorties de sûretés ou versées, de droits détenus ou acquis, d'acquisition ou de vente d'actions ou autres biens, du transfert, de la négociation ou de la détention d'actions, de directions de liaison, de contrôle commun, d'abus d'influence ou de contrôle ou d'autres rapports.

(3) La personne chargée de l'enquête aux termes du présent article a les pouvoirs de la Cour suprême lors de procès civils pour assigner les témoins, les forcer à être présents, les contraindre à témoigner sous serment ou autrement, ainsi qu'à produire les documents, dossiers et objets qu'ils ont en leur possession ou sous leur garde. Le défaut ou le refus des témoins d'obtempérer rend ceux-ci, sur l'ordre d'un juge de la Cour suprême, passibles d'incarcération pour outrage au tribunal, comme dans le cas du défaut de se conformer à l'ordonnance ou au jugement de la Cour suprême. Aucune disposition de la *Loi sur la preuve* n'a pour effet de dispenser de l'application du présent article une banque, une compagnie ou leurs dirigeants ou employés.

Pouvoir d'assigner des témoins et d'exiger la production de documents



Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of  
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the corporation or other person whose affairs are being investigated.

Inspection of  
seized  
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the corporation or other person from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or corporation to the person appointed to make the investigation.


Accountants  
and experts

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, property and matters of the person or corporation whose affairs are being investigated.

Reports of  
investigation

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Protection  
from  
personal  
liability

**207.** No action or other proceeding for damages shall be instituted against a person appointed under subsection 206 (1) or (7) for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty. 

Order to  
freeze  
property

**208.**—(1) The Superintendent may,

- (a) where the Superintendent is about to order an investigation in respect of a corporation or other person under section 206 or during or after an investigation in respect of a person or corporation under section 206;
- (b) where the Director is about to make or has made a decision revoking the registration of any corporation; or




(4) La personne qui témoigne à l'enquête menée aux termes du présent article peut être représentée par un avocat. Avocat

(5) La personne chargée de l'enquête aux termes du présent article peut saisir les documents, dossiers, valeurs mobilières ou autres biens de la compagnie ou de l'autre personne dont les affaires font l'objet de l'enquête et en prendre possession. Saisie des biens

(6) La personne chargée de l'enquête rend accessibles à des fins d'inspection et de reproduction, à l'heure et au lieu convenus avec la compagnie ou la personne qui en fait la demande, les documents, dossiers, valeurs mobilières ou autres biens qui ont été saisis entre leurs mains en vertu du paragraphe (5). Inspection des documents saisis

(7) Le surintendant peut nommer un comptable ou autre expert pour faire l'examen des documents, dossiers, biens et activités de la compagnie ou de la personne dont les affaires font l'objet de l'enquête visée au présent article. Comptables et experts

(8) La personne nommée en vertu du paragraphe (1) ou (7) présente au surintendant un rapport complet et détaillé de l'enquête, y compris, le cas échéant, la transcription des témoignages et les documents qui s'y rapportent et que celle-ci a en sa possession. Rapport de l'enquête

 **207** Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre une personne nommée aux termes des paragraphes 206 (1) ou (7) pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de ses fonctions ou pour une négligence ou un défaut imputé dans l'exercice de bonne foi de ses fonctions. Immunité

**208** (1) Le surintendant peut, au moyen d'un procédé qui produit un texte écrit ou imprimé, enjoindre à une compagnie ou à une autre personne de retenir les fonds, valeurs mobilières ou biens confiés à sa garde, notamment à titre de dépôt, par la compagnie ou la personne visées ci-après, dans les cas suivants : Avoirs bloqués

- a) le surintendant est sur le point d'ordonner une enquête aux termes de l'article 206 relativement à une compagnie ou à une autre personne, ou une telle enquête est déjà en cours ou est terminée;
- b) le directeur est sur le point de rendre ou a rendu sa décision de radier l'inscription d'une compagnie;

- (c) where proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any corporation or other person that in the opinion of the Superintendent are connected with or arise out of any business conducted by the corporation or other person,

by any method that provides a written or printed copy, direct any corporation or other person having on deposit or under control or for safekeeping any funds, securities or assets of the corporation or other person referred to in clause (a), (b) or (c) to hold such funds or securities or assets or direct the corporation or other person referred to in clause (a), (b) or (c) to refrain from withdrawing or dealing with any such funds, securities or assets from any other person having any of them on deposit, under control or for safekeeping or to hold all funds, securities or assets in their possession or control in trust for the Superintendent, or until the Superintendent in writing revokes the direction or consents to release any particular fund or property from the direction.

Idem

(2) A direction issued under subsection (1) does not apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states and in the case of a bank or a corporation, the direction applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person or corporation named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular funds, securities or assets, may apply to the Superintendent for an order of clarification.

Revocation  
or  
amendment  
of  
direction

(4) Upon the application of a registered corporation or other person directly affected by a direction issued under subsection (1), the Superintendent may make an order on such terms and conditions as he or she may impose revoking the direction or consenting to the release of any fund or security.

Notice to  
land registry  
offices

(5) In any of the circumstances mentioned in clause (1) (a), (b) or (c), the Superintendent may by any method that provides a written or printed copy notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the corporation or other person referred to in the notice, and the land registrar shall register the notice against the title of the land.

Idem

(6) A notice registered under subsection (5) has the same effect as the registration of a certificate of pending litigation or a caution, and the Superintendent may in writing revoke or modify the notice.

- c) des poursuites découlant d'une contravention à la présente loi ou aux règlements sont sur le point d'être intentées ou l'ont été contre une compagnie ou une autre personne, et le surintendant est d'avis que les poursuites sont reliées à des activités exercées par la compagnie ou l'autre personne ou en sont la conséquence.

Le surintendant peut de même enjoindre à la compagnie ou à l'autre personne visée aux alinéas a), b) ou c) de s'abstenir de disposer de tels fonds, valeurs mobilières ou biens ou d'en effectuer le retrait auprès de toute personne qui en aurait la garde, notamment à titre de dépôt, ou de les détenir en fiducie pour le compte du surintendant. L'ordre reste en vigueur jusqu'à ce que le surintendant le révoque par écrit. Il peut toutefois consentir à soustraire à son application un fonds ou un bien en particulier.

(2) Sauf disposition expresse à cet effet contenue dans l'ordre donné aux termes du paragraphe (1), celui-ci ne s'applique pas aux fonds ou aux valeurs mobilières en dépôt à la chambre de compensation d'une bourse ou à ceux qui font l'objet d'un transfert par un agent de transferts. Dans le cas des banques et des compagnies, cet ordre ne s'applique qu'aux bureaux, succursales ou agences qui y sont précisés. Idem

(3) La personne ou la compagnie visée par l'ordre donné aux termes du paragraphe (1) et qui s'interroge au sujet de l'application de l'ordre à un fonds, à des valeurs mobilières ou à des biens en particulier peut s'adresser au surintendant, par voie de requête, en vue d'obtenir une ordonnance apportant des précisions. Demande de précisions

(4) Le surintendant, à la requête d'une compagnie inscrite ou d'une personne directement visée par l'ordre donné aux termes du paragraphe (1), peut, aux conditions qu'il fixe, révoquer l'ordre ou consentir à soustraire à son application un fonds ou une valeur mobilière. Révocation ou modification de l'ordre

(5) Dans les cas visés aux alinéas (1) a), b) ou c), le surintendant peut, au moyen d'un procédé qui produit un texte écrit ou imprimé, notifier un registrateur des droits immobiliers qu'une poursuite susceptible de porter sur les biens-fonds appartenant à la compagnie ou à la personne visée est intentée ou sur le point de l'être. Le registrateur fait alors enregistrer l'avis sur le bien-fonds. Avis aux bureaux d'enregistrement immobilier

(6) L'avis enregistré aux termes du paragraphe (5) a le même effet que l'enregistrement d'un certificat d'affaire en instance ou d'un avertissement. Le surintendant peut, par écrit, révoquer ou modifier cet avis. Idem

Liability for  
short-fall

**209.**—(1) Where the Director, under clause 192 (1) (a), (c) or (d), has ordered a registered corporation or any of its subsidiaries to dispose of and realize any of its investments and if the amount realized therefrom falls below the amount paid by it for such investments, the directors of the corporation are jointly and severally liable for the payment to the corporation of the amount of the deficiency.

Idem

(2) If a director is present when any investment referred to in subsection (1) is authorized, forthwith, or if any director then absent, within twenty-four hours after he or she become aware of such investment, and is able to do so, sends his or her written dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting of the board of directors and, within eight days thereafter, notifies the Director in writing of the dissent, the director of the corporation may thereby, but not otherwise, exonerate himself or herself from liability.

Order for  
compliance

**210.**—(1) Where it appears to the Superintendent that any registered corporation or other person has failed to comply with or is not complying with,

- (a) any approval given or any order made under this Act;
- (b) any voluntary compliance program entered into; or
- (c) any term, condition or restriction imposed on its registration,

the Superintendent, in addition to any other rights under this Act, may apply to the High Court of Justice for an order,

- (d) directing the person or corporation to comply with the approval, program or order, term, condition or restriction or restraining the person or corporation from violating the approval, program, order, term, condition or restriction; and
- (e) directing the directors and officers of the person or corporation to cause the person or corporation to comply with or to cease violating the approval, program or order of the Director or Superintendent, or term, condition or restriction imposed on its registration,

and the court may make such order as it considers appropriate.



**209** (1) Si le directeur, agissant en vertu de l'alinéa 192 (1) a), c) ou d), enjoint à la compagnie inscrite ou à l'une de ses filiales de se départir de ses placements et de les réaliser, et si leur valeur de réalisation est inférieure à leur coût initial, les administrateurs de la compagnie sont solidairement tenus de combler l'insuffisance.

Responsabilité  
pour  
insuffisance

(2) L'administrateur présent au moment où le placement visé au paragraphe (1) est autorisé ne dégage sa responsabilité que s'il fait parvenir, sans délai et par écrit, sa dissidence par courrier recommandé ou la remet à l'établissement principal de la compagnie et demande qu'elle soit consignée au procès-verbal de la prochaine réunion du conseil d'administration. Il doit aussi, dans les huit jours, aviser le directeur de sa dissidence, par écrit. L'administrateur absent à ce moment ne dégage sa responsabilité que s'il agit de même dans les vingt-quatre heures qui suivent le moment où il apprend que le placement a été autorisé et a la possibilité d'agir.

Idem

**210** (1) Lorsque le surintendant est d'avis qu'une compagnie inscrite ou une autre personne ne s'est pas conformée ou ne se conforme pas :

Ordonnance  
de se  
conformer

- a) à une approbation ou un ordre donnés ou une ordonnance rendue en vertu de la présente loi;
- b) au programme d'adhésion volontaire auquel elle a souscrit;
- c) à l'une des conditions ou restrictions dont est assortie son inscription,

il peut, outre les autres droits que lui accorde la présente loi, demander par voie de requête à la Haute Cour de justice de rendre une ordonnance aux fins :

- d) d'enjoindre à la personne ou la compagnie de se conformer à l'approbation, au programme, à l'ordre, à l'ordonnance, à la condition ou à la restriction, ou d'interdire à celles-ci d'y contrevenir;
- e) d'enjoindre aux administrateurs et dirigeants de la personne ou de la compagnie de faire en sorte que ces dernières se conforment à l'approbation, au programme, à l'ordre du directeur ou du surintendant ou aux conditions dont est assortie l'inscription ou qu'elles mettent fin à toute contravention à leur égard.

La Haute Cour peut rendre l'ordonnance qu'elle juge pertinente.



Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Oppression  
remedy

**211.**—(1) A depositor, shareholder, creditor, a person for whom the registered corporation acts in a fiduciary capacity or the Superintendent may apply to the High Court of Justice for an order under this section.

Idem

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a registered corporation or any of its affiliates,

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any shareholder, depositor, creditor or person for whom the corporation acts in a fiduciary capacity, the court may make an order to rectify the matters complained of.

Notice to  
Superin-  
tendent

(3) Where a depositor, shareholder, creditor or person for whom the corporation acts in a fiduciary capacity makes an application under subsection (1), he or she shall give notice to the Superintendent.

Court order

(4) In connection with an application under this section, the court may make any interim or final order it thinks appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining the conduct complained of;
- (b) an order to regulate a corporation's affairs by amending the by-laws;
- (c) an order appointing directors in place of or in addition to all or any of the directors then in office;

(2) Il peut être interjeté appel devant la Cour divisionnaire de l'ordonnance rendue en vertu du paragraphe (1). Appel

**211** (1) Le déposant, l'actionnaire, le créancier, la personne que représente la compagnie inscrite en qualité de fiduciaire, ainsi que le surintendant peuvent s'adresser à la Haute Cour de justice, par voie de requête, en vue d'obtenir une ordonnance en vertu du présent article. Recours en cas d'abus

(2) Si le tribunal est convaincu, dans le cadre d'une requête présentée en vertu du paragraphe (1) : Idem

- a) qu'un acte ou une omission d'une compagnie inscrite ou d'un membre du même groupe entraînent ou risquent d'entraîner un résultat qui lèse gravement les intérêts d'un actionnaire, d'un déposant, d'un créancier ou d'une personne que la compagnie représente à titre de fiduciaire, ou qui, de façon injuste, porte atteinte à leurs intérêts ou n'en tient pas compte;
- b) que la compagnie ou un membre du même groupe conduisent leurs affaires d'une manière susceptible d'entraîner le résultat décrit à l'alinéa a), l'ont fait ou risquent de le faire;
- c) que les administrateurs de la compagnie ou d'un membre du même groupe ont exercé leurs pouvoirs d'une manière susceptible d'entraîner le résultat décrit à l'alinéa a), l'ont fait ou risquent de le faire,

le tribunal peut rendre une ordonnance afin de redresser la situation.

(3) Le déposant, l'actionnaire, le créancier ou la personne que représente la compagnie à titre de fiduciaire et qui présentent une requête aux termes du paragraphe (1), en donnent avis au surintendant. Avis au surintendant

(4) Pour donner suite à la requête présentée aux termes du présent article, le tribunal peut rendre l'ordonnance provisoire ou définitive qu'il estime pertinente, notamment pour : Ordonnance du tribunal

- a) interdire le comportement reproché;
- b) réglementer les affaires de la compagnie en modifiant son règlement intérieur;
- c) faire des nominations au conseil d'administration, soit pour remplacer tous les administrateurs en fonction ou certains d'entre eux, soit pour en augmenter le nombre;

- (d) an order varying or setting aside a transaction or contract to which a registered corporation is a party and compensating the registered corporation or any other party to the transaction or contract;
- (e) an order requiring a registered corporation, within a time specified by the court, to produce to the court or an interested person financial statements or an accounting in such other form as the court may determine;
- (f) an order compensating an aggrieved person;
- (g) an order directing rectification of the records of a corporation; or
- (h) an order requiring the trial of any issue.

Want of  
prosecution

**212.**—(1) An application under section 211 shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any person described in subsection 211 (1) may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application to give notice to the person.

Costs

(2) A person described in subsection 211 (1) is not required to give security for costs in any application under that section.

Idem

(3) In an application under section 211, the court may at any time order the registered corporation or any of its affiliates to pay to the shareholder, depositor, creditor or person to whom the corporation acts in a fiduciary capacity or Superintendent interim costs, including reasonable legal fees and disbursements, for which interim costs the applicant may be held accountable to the corporation or its affiliate upon final disposition of the application.

## PART XIII

### OFFENCES AND PENALTIES

Carrying on  
business of  
corporation  
prohibited

**213.**—(1) No person, other than a registered corporation, shall conduct, undertake or transact in Ontario the business of a loan corporation or of a trust corporation.

Acting as  
trustee, etc.,  
prohibited

(2) No body corporate, other than a registered trust corporation, shall,

- d) modifier ou annuler une opération ou un contrat auxquels est partie la compagnie inscrite, et indemniser la compagnie ou une autre partie à l'opération ou au contrat;
- e) enjoindre à la compagnie inscrite de fournir dans le délai imparti, au tribunal ou à la personne intéressée, soit des états financiers, soit un compte-rendu comptable dans une autre forme que précise le tribunal;
- f) indemniser une personne lésée;
- g) rectifier les dossiers de la compagnie;
- h) faire instruire toute question litigieuse.

**212** (1) Le sursis, la transaction ou le rejet, faute de poursuite, de la requête visée à l'article 211 ou le désistement du requérant, sont subordonnés à leur approbation par le tribunal aux conditions qu'il estime pertinentes. Le tribunal peut également ordonner à toute partie d'en donner avis à la personne visée au paragraphe 211 (1) s'il conclut que les droits de celle-ci peuvent être sérieusement atteints par cette mesure.

Absence de  
poursuite

(2) La personne visée au paragraphe 211 (1) n'est pas tenue de fournir un cautionnement pour dépens lors de la requête visée à cet article.

Dépens

(3) À la suite de la requête visée à l'article 211, le tribunal peut ordonner à la compagnie inscrite ou au membre du même groupe que celle-ci de verser aux actionnaires, déposants, créanciers, aux personnes que la compagnie représente à titre de fiduciaire ou au surintendant, des dépens provisoires, y compris des honoraires légaux et débours raisonnables. Le requérant peut être redevable de ces dépens provisoires envers la compagnie ou le membre du même groupe que celle-ci lors du règlement définitif de la requête.

Idem

## PARTIE XIII

### INFRACTIONS ET PEINES

**213** (1) Nulle personne autre que la compagnie inscrite ne doit poursuivre, entreprendre ou exercer en Ontario les activités d'une compagnie de prêt ou d'une compagnie de fiducie.

Interdiction  
d'exercer les  
activités d'une  
compagnie

(2) Nulle personne morale autre que la compagnie de fiducie inscrite ne doit :


Interdiction  
d'agir en tant  
que fidu-  
ciaire, etc.

- (a) offer its services to the public as, or accept or execute the office of,
  - (i) executor or administrator, or
  - (ii) guardian of any minor's estate or committee of any mentally incompetent person's estate; or
- (b) act as a trustee in respect of any service it provides to the public.

Exception

(3) Clause (2) (b) does not apply to,

1982, c. 4

- (a) a body corporate that is acting as a trustee as provided under Part II of the *Business Corporations Act, 1982* or as required by any other Act; or
- (b) a body corporate that manages a mutual fund trust and that is approved by the Ontario Securities Commission to act as the trustee of the mutual fund trust. 

Restriction  
on  
use of name

(4) No person, other than a registered trust corporation, shall hold itself out to the public in Ontario as a registered trust corporation by using in its name the words "trust corporation", "trust company", "trustco", "compagnie de fiducie" or "société de fiducie" or any similar words in its name in conjunction with its business or undertakings, unless such name was legally in use before the day this section comes into force.

Carrying on  
business by  
corporations

(5) No corporation, other than a registered corporation, shall hold itself out to the public in Ontario as a registered corporation by conducting, undertaking or transacting any part or aspect of the business of a trust corporation or loan corporation.

Soliciting  
business

(6) No person, other than a registered corporation and a person duly authorized by it to act on its behalf, shall solicit the business of a trust corporation or loan corporation.

Action of  
promoters,  
etc.

(7) No person shall undertake, transact or solicit in Ontario any part or aspect of the business of a trust corporation or a loan corporation for a body corporate that is not registered under this Act.

Prohibition  
on certain  
activities

(8) No registered corporation, directly or indirectly, through a subsidiary or otherwise, unless permitted under this Act, shall,



a) offrir ses services au public ou accepter ou exercer quelque fonction :

(i) en tant qu'exécuteur testamentaire ou administrateur successoral,

(ii) en tant que tuteur aux biens d'un enfant mineur ou curateur aux biens d'une personne frappée d'incapacité mentale;


b) agir en tant que fiduciaire à l'égard des services qu'elle fournit au public.

(3) L'alinéa (2) b) ne s'applique pas :

Exception

a) à la personne morale qui agit en tant que fiduciaire comme le prévoit la partie II de la *Loi de 1982 sur les compagnies* ou comme l'exige une autre loi;

1982, chap. 4

b) à la personne morale qui a été approuvée par la Commission des valeurs mobilières de l'Ontario en tant que fiduciaire d'un fonds mutuel constitué en fiducie dont elle assure la gestion. 

(4) Nulle personne autre que la compagnie de fiducie inscrite ne doit se faire passer pour une telle compagnie auprès du public en Ontario en se désignant sous une dénomination sociale qui comporte les mots «trust corporation», «trust company», «trustco», «compagnie de fiducie» ou «société de fiducie» ou autres termes semblables, relativement à ses activités ou entreprises, sauf si la personne employait légalement cette dénomination sociale avant l'entrée en vigueur du présent article.

Restriction à l'utilisation d'une dénomination sociale

(5) Nulle compagnie autre que la compagnie inscrite ne doit se faire passer pour une telle compagnie auprès du public en Ontario en poursuivant, en entreprenant ou en exerçant une partie des activités d'une compagnie de fiducie ou d'une compagnie de prêt.

Activités exercées par les compagnies

(6) Nulle personne autre que la compagnie inscrite et son mandataire autorisé ne doit solliciter la clientèle propre à la compagnie de prêt ou à la compagnie de fiducie.

Sollicitation

(7) Nulle personne ne doit, pour le compte d'une personne morale qui n'est pas inscrite en vertu de la présente loi, entreprendre ou exercer en Ontario une partie des activités d'une compagnie de fiducie ou d'une compagnie de prêt ou solliciter la clientèle qui leur est propre.

Démarches de promoteurs, etc.

(8) Sauf autorisation accordée aux termes de la présente loi, la compagnie inscrite ne doit pas, directement ou indirectement, par l'entremise de ses filiales ou autrement :

Interdiction d'exercer certaines activités

- (a) deal in goods, wares and merchandise or engage in any trade or business;
- (b) provide letters of credit or like instruments;
- (c) guarantee the performance of any obligation by a person other than the corporation or its subsidiary unless the corporation has received security for the guarantee at least equal to the amount of the obligation guaranteed; or
- (d) issue notes of the corporation payable to bearer on demand and intended for circulation.

## Offences

**214.**—(1) Every person who,

- (a) contravenes any provision of section 213;
- (b) fails to comply with any written undertaking given under this Act;
- (c) fails to comply with an order made under this Act;
- (d) contravenes any provision of Part IX;
- (e) allows their name to be used on behalf of a person having a beneficial interest in a corporation for the purpose of disguising such interest;
- (f) contravenes reporting requirements related to insider trading in respect of a corporation;
- (g) traffics in a shareholder's list contrary to section 133;
- (h) accepts or receives or gives a grant or gratuity or holds shares contrary to section 179;
- (i) fails to report to the Superintendent as required under this Act;
- (j) in the case of a registered corporation, contravenes any term, condition or restriction imposed on its registration; or
- (k) knowingly provides false information in relation to any matter under this Act,

is guilty of an offence.

- a) faire le commerce d'effets mobiliers, d'objets et de marchandises ou s'adonner à un commerce;
- b) souscrire des lettres de crédit ou effets semblables;
- c) cautionner l'exécution d'une obligation par une personne autre que la compagnie ou sa filiale, à moins que la compagnie n'ait reçu une sûreté d'une valeur au moins égale au montant de l'obligation garantie;
- d) délivrer des billets au porteur payables sur demande, souscrits par la compagnie et destinés à être mis en circulation.

**214** (1) Est coupable d'une infraction toute personne qui : Infractions

- a) enfreint une disposition de l'article 213;
- b) ne se conforme pas à un engagement écrit pris aux termes de la présente loi;
- c) enfreint une ordonnance prise ou rendue ou un ordre donné en vertu de la présente loi;
- d) enfreint une disposition de la partie IX;
- e) consent à l'utilisation de son nom ou de sa dénomination sociale pour le compte du titulaire d'un droit à titre bénéficiaire dans une compagnie, aux fins de permettre à ce dernier de dissimuler son droit;
- f) ne se conforme pas aux obligations de divulgation relatives aux transactions d'initiés relativement aux compagnies;
- g) trafique des listes d'actionnaires contrairement à l'article 133;
- h) accepte, reçoit ou accorde un don ou une gratification, ou détient des actions, contrairement à l'article 179;
- i) ne présente pas au surintendant un rapport exigé aux termes de la présente loi;
- j) dans le cas d'une compagnie inscrite, enfreint une condition ou restriction dont est assortie son inscription;
- k) fournit sciemment de faux renseignements concernant tout point visé à la présente loi.

## Penalty

(2) On conviction for an offence referred to in subsection (1) or subsection 60 (4) or 61 (6), the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

## Derivative

(3) Every person who caused, authorized, permitted or participated in an offence referred to in subsection (1) or subsection 60 (4) or 61 (6) is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Saving,  
voluntary  
compliance  
program

(4) Notwithstanding subsection (1), a person for whom a voluntary compliance program has been approved by the Superintendent who complies fully with such program shall not be prosecuted for or convicted of an offence in respect of the breach of this Act which the program was intended to remedy.

Saving,  
disclosure

(5) A person is not guilty of an offence under clause (1) (d) if the person was not a party to the offence and reported the failure to comply with Part IX as set out in section 150 or 151.

Limitation  
period

**215.** No proceeding for an offence under this Part shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent.

Order to  
comply

**216.** Where a person is convicted of an offence under this Act or the regulations, the court in which proceedings in respect of the offence are taken, in addition to any punishment it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted.

## Restitution

**217.** Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

## PART XIV

## MISCELLANEOUS AND REGULATIONS

Deposits  
from persons  
unable to  
contract

**218.** A registered corporation, without the authority, aid, assistance or intervention of any other person or official being required, may receive deposits from any person regardless of the person's age, status or condition in life, and whether the

(2) La personne déclarée coupable d'une infraction visée au paragraphe (1) ou aux paragraphes 60 (4) ou 61 (6) est passible d'une amende d'au plus 100 000 \$ à la première déclaration de culpabilité et d'au plus 200 000 \$ à chacune des déclarations subséquentes.

Peine

(3) Toute personne qui a causé, autorisé ou permis la perpétration de l'infraction visée au paragraphe (1) ou aux paragraphes 60 (4) ou 61 (6), ou qui y était partie, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 100 000 \$ à la première déclaration de culpabilité et d'au plus 200 000 \$ à chacune des déclarations subséquentes.

Infraction dérivée

(4) Malgré le paragraphe (1), la personne qui se conforme à toutes les dispositions d'un programme d'adhésion volontaire approuvé à son égard par le surintendant n'est passible d'aucune poursuite ou condamnation à la suite de la contravention à la présente loi que ce programme était destiné à corriger.

Exception, programme d'adhésion volontaire

(5) N'est coupable d'aucune infraction aux termes de l'alinéa (1) d) la personne qui n'était pas partie à l'infraction et a signalé l'omission de se conformer à la partie IX, conformément aux articles 150 ou 151.

Exception, en cas de divulgation

**215** Est irrecevable la poursuite intentée relativement à une infraction à la présente partie plus de deux ans après que les faits sur lesquels elle se fonde ont été portés à la connaissance du surintendant.

Prescription

**216** Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable d'une infraction à la présente loi ou aux règlements de se conformer à la disposition à l'égard de laquelle elle a été déclarée coupable d'une infraction.

Ordonnance de se conformer

**217** Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

## PARTIE XIV

### DISPOSITIONS DIVERSES ET RÈGLEMENTS

**218** La compagnie inscrite peut, sans l'aide, le concours ni l'intervention d'une autre personne ou d'un fonctionnaire, recevoir les dépôts de toute personne, sans égard à son âge, sa qualité, sa condition ou sa capacité juridique de contracter.

Dépôts par les personnes n'ayant pas la capacité de contracter



person is qualified by law to enter into ordinary contracts or not, and from time to time may pay any or all of the principal thereof and any or all of the interest thereon to or to the order of the person, unless before payment, the money on deposit is claimed by some other person in a court proceeding to which the corporation is a party and in respect of which service of a statement of claim or other process originating such proceeding has been made on the corporation, or in any other proceeding pursuant to which an injunction or order made by the court requiring the corporation not to make payment of such money or to make payment thereof to some person other than the depositor has been served on the corporation, and in the case of any such claim so made the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

Direction as  
to disposition  
of deposits  
on  
death

**219.**—(1) A person who has deposits with a registered corporation not exceeding \$2,000 may, by a writing, signed by him or her and deposited with the corporation, nominate any person to receive the amount thereof at his or her death.

Rights of  
corporation

(2) Upon receiving a statutory declaration as to the death of a person who has made a nomination under subsection (1), the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due.

Where no  
direction

(3) Where a depositor as described in subsection (1) dies without making a nomination in accordance with that subsection, the deposit may, without letters probate or letters of administration being taken out, be paid or transferred to,

- (a) the person who appears to the corporation to be entitled under the will of such depositor or in the case of intestacy under the law relating to devolution of property to receive it; or
- (b) any person who appears to the corporation to be equitably entitled thereto by reason of having incurred expense for the support, medical attendance or burial of the depositor,

upon receipt by the corporation of the statutory declaration of the person so claiming stating the time and place and death of the applicant and the facts supporting the claim.



Unclaimed  
deposits

**220.**—(1) Within thirty days of a deposit made in Ontario to a registered provincial corporation becoming an unclaimed deposit, the corporation shall pay to the Treasurer of Ontario the amount owing to the depositor, including interest, if any, in accordance with the agreement between the corporation and the depositor.

Elle peut de même verser à cette personne ou à son ordre, une partie ou la totalité du principal et des intérêts, sauf si, avant ce versement, les sommes déposées sont revendiquées par une autre personne dans une instance judiciaire à laquelle est partie la compagnie et que cette dernière a reçu signification d'une déclaration ou d'un autre acte introductif d'instance. Cette exception vaut aussi dans le cas de l'instance dans laquelle une injonction ou autre ordonnance enjoignant à la compagnie de ne pas verser la somme d'argent ou d'en effectuer le versement à une personne autre que le déposant a été rendue et signifiée à la compagnie. Si une telle revendication est présentée, les sommes déposées peuvent être versées soit au déposant, soit à l'auteur de la demande, de leur consentement réciproque.

**219** (1) La personne dont les dépôts effectués auprès de la compagnie inscrite ne dépassent pas 2 000 \$ peut, dans un écrit signé de sa main et déposé auprès de la compagnie, désigner le bénéficiaire de ces sommes à son décès.

Disposition  
des dépôts à  
la mort du  
déposant

(2) Dès réception d'une déclaration solennelle concernant le décès de la personne qui est l'auteur de la désignation visée au paragraphe (1), la compagnie peut, dans ses dossiers, substituer au nom de cette personne celui de la personne désignée ou peut immédiatement verser la somme due à la personne désignée.

Droits de la  
compagnie

(3) Au décès du déposant visé au paragraphe (1) qui n'a pas fait de désignation aux termes de ce paragraphe, les sommes déposées peuvent, sans qu'il y ait délivrance de lettres d'homologation ou d'administration, être versées à la personne qui, de l'avis de la compagnie, paraît y avoir droit :

Absence de  
disposition  
expresse

- a) aux termes du testament du déposant ou de la loi qui régit les successions *ab intestat*, selon le cas;
- b) en *equity*, en raison des frais engagés par celle-ci pour les aliments, le traitement médical ou l'inhumation du déposant.

Ceci peut se faire dès réception par la compagnie de la déclaration solennelle de l'auteur de la demande, indiquant la date et le lieu du décès du déposant et les faits à l'appui de sa demande.



**220** (1) Lorsqu'un dépôt fait en Ontario auprès d'une compagnie provinciale inscrite devient un dépôt non réclamé, la compagnie verse au trésorier de l'Ontario, dans les trente jours, le montant qui est dû au déposant, y compris les intérêts, le cas échéant, conformément à l'accord conclu entre la compagnie et le déposant.

Dépôts non  
réclamés


Effect of  
payment

(2) Payment to the Treasurer under subsection (1) discharges the corporation from all liability in respect of the deposit.

Idem

(3) The Treasurer may pay an amount received under subsection (1) to a person claiming to be entitled to it upon being furnished with satisfactory proof of the person's entitlement.

Idem

(4) For the purpose of subsection (1), a deposit becomes an unclaimed deposit on the day ten years after the day on which the fixed term ended, in the case of a deposit for a fixed term, and, in any other case, the day on which the last transaction took place on the depositor's account or a statement of account was last requested or acknowledged by the depositor, whichever is latest. 

Payments by  
mistake

**221.** Where a registered corporation, after the death of a depositor, has paid or transferred a deposit to the person who at the time appeared to be entitled thereto, the payment or transfer is valid with respect to any demand from any other person as legatee, next of kin or personal representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit from the recipient or transferee.

Delivery of  
notices

**222.**—(1) Delivery of any written notice or document for any purpose of this Act, where the mode is not otherwise specified, may be delivered by first class ordinary mail or first class registered mail,

- (a) in the case of a registered corporation, addressed to it or its chief executive officer at its principal place of business;
- (b) in the case of a director, addressed to the director at his or her address as shown on the records of the Superintendent; and
- (c) in the case of the Superintendent, addressed to the Superintendent at his or her office.

Idem

(2) In the case of an extra-provincial corporation, a notice or document may be delivered in accordance with clause (1) (a) or may be delivered by first class or registered mail addressed to it or its agent or any of its agents at the address thereof as set out in the most recent application filed under section 32.

Regulations

**223.** The Lieutenant Governor in Council may make regulations,

(2) Le versement du montant au trésorier aux termes du paragraphe (1) libère la compagnie de toute obligation en ce qui concerne le dépôt. Effet du versement

(3) Le trésorier peut verser un montant reçu aux termes du paragraphe (1) à la personne qui prétend y avoir droit, s'il reçoit des preuves satisfaisantes du droit de cette personne à ce montant. Idem

(4) Pour l'application du paragraphe (1), un dépôt devient un dépôt non réclamé le dixième anniversaire de l'échéance, s'il s'agit d'un dépôt à échéance fixe, et, dans tous les autres cas, le dixième anniversaire de la dernière opération relative au compte du déposant, ou du dernier jour où le déposant a demandé un relevé de compte ou a accusé réception d'un tel relevé, selon le jour le plus récent. Idem

**221** Le versement ou la cession par la compagnie inscrite, à la suite du décès du déposant, des sommes déposées à la personne qui paraissait alors y avoir droit est valable face à toute demande de la part du légataire, du plus proche parent ou de l'ayant droit du défunt. Ces personnes sont toutefois fondées à recouvrer ces sommes du bénéficiaire ou du cessionnaire. Versement effectué par erreur

**222** (1) L'envoi d'un avis écrit ou autre document pour l'application de la présente loi s'effectue, à moins qu'un autre mode ne soit précisé, par courrier ordinaire ou recommandé de première classe : Envoi des avis

- a) dans le cas de la compagnie inscrite, à son adresse ou à celle du responsable de la direction à l'établissement principal de la compagnie;
- b) dans le cas de l'administrateur, à l'adresse de ce dernier qui figure aux dossiers du surintendant;
- c) dans le cas du surintendant, à son bureau.

(2) Dans le cas de la compagnie extraprovinciale, l'avis ou le document peut être envoyé, soit conformément à l'alinéa (1) a), soit par courrier de première classe ou recommandé à l'adresse de la compagnie ou de son mandataire ou de l'un d'eux à l'adresse qui figure à la demande la plus récente déposée aux termes de l'article 32. Idem

**223** Le lieutenant-gouverneur en conseil peut, par règlement : Règlements



1. prescribing forms and providing for their use;
2. requiring the payment of annual fees and fees for letters patent of incorporation and supplementary letters patent and in respect of any function performed by the Superintendent or Director under this Act or the regulations and prescribing the amounts thereof;
3. exempting persons holding such percentage, as may be set out in the regulation, of shares of a corporation from the requirements of section 63;
4. exempting classes of corporations from the requirements of section 63;
5. respecting the records, papers and documents to be retained by corporations and the length of time they shall be so retained;
6. requiring the disclosure to borrowers of terms and conditions of loans and mortgages and of interest rates in lending transactions;
7. prescribing words or expressions that are prohibited in the name of a corporation and prescribing conditions for the use of names by corporations;
8. prescribing the information that shall be maintained in the Loan Corporations Register, the Trust Corporations Register and the public file of each corporation;
9. governing the custody and safekeeping of securities, property or trust assets registered in the name of or held by a registered corporation;
10. prescribing financial statements required under this Act and the method of their preparation;
11. prescribing information to be placed before the annual meeting of a corporation and requiring a corporation to make public such information as may be set out in the regulations;
12. governing the reporting of information to and by The Trust Companies Association of Canada Inc.;




1. prescrire des formules et prévoir les modalités de leur emploi;
2. exiger l'acquiescement de droits annuels, ainsi que de droits pour la délivrance de lettres patentes de constitution et de lettres patentes supplémentaires, de même que de droits reliés à l'exercice des fonctions du surintendant ou du directeur aux termes de la présente loi ou des règlements, et prescrire les montants de ces droits;
3. soustraire à l'application de l'article 63 les détenteurs d'un pourcentage d'actions de la compagnie, tel que fixé au règlement;
4. soustraire à l'application de l'article 63 des catégories de compagnies;
5. prévoir les dossiers, écrits et documents que la compagnie doit conserver, de même que la durée de leur conservation;
6. exiger la divulgation aux emprunteurs des conditions dont sont assorties les prêts et les hypothèques, ainsi que des taux d'intérêts relatifs aux opérations de prêt;
7. prescrire des mots ou expressions dont l'emploi dans la dénomination sociale d'une compagnie est interdit, et prescrire les conditions d'utilisation de dénominations sociales par les compagnies;
8. prescrire les renseignements qui sont conservés dans le Registre des compagnies de prêt, le Registre des compagnies de fiducie, et le dossier public de chacune d'elles;
9. régir la garde et le maintien en lieu sûr des valeurs mobilières, des biens et notamment des biens détenus en fiducie, conservés par la compagnie inscrite ou inscrits à son nom;
10. prescrire les états financiers exigés aux termes de la présente loi, ainsi que la façon de les établir;
11. prescrire les renseignements devant être présentés lors de l'assemblée annuelle de la compagnie, et exiger que celle-ci rende publics les renseignements que prescrit le règlement;
12. régir la communication de renseignements à L'Association des compagnies de fiducie du Canada Inc., ainsi que leur diffusion par celle-ci;

13. prescribing the method of calculating the capital base of a corporation, including what assets may or may not be included therein and the manner in which the value of any such asset shall be calculated or determined for such purpose;
14. prescribing the method of calculating the total assets of a corporation, including the manner in which the value of any such asset shall be calculated or determined for such purpose;
15. prescribing classes of loans, investments or transactions for the purposes of Part IX;
16. prescribing limits in dollar amounts or in a percentage of total assets of investments in any asset or any class of assets and where a limit has been imposed by this Act with respect to any asset or class of assets, prescribing limits that are more restrictive than those set out in the Act;
17. prescribing the method of calculating liquidity of a corporation;
18. governing the issue of subordinated notes;
19. governing the establishment and operation of common trust funds and the investment of trust money in such funds;
20. requiring the bonding and insurance coverage of and for directors, officers, agents and employees of the corporation and of property of the corporation or held by it;
21. governing the activities of a registered corporation in dealing with persons who act as agents for the corporation and governing the relationships between the corporation and its agents;
22. designating statutes and ordinances for the purposes of clause 162 (2) (a);
23. prescribing a percentage for the purposes of clause 168 (1) (a);
24. governing the establishment of networks by registered corporations for the purpose of providing financial services to their clients;




13. prescrire le mode de calcul de l'apport en capital de la compagnie, y compris les biens devant être inclus ou non et, à cette fin, le mode d'évaluation de chacun de ces biens;
14. prescrire le mode de calcul de l'actif total de la compagnie, y compris le mode d'évaluation à cette fin de chacun des biens qui le composent;
15. prescrire des catégories de prêts, de placements ou d'opérations pour l'application de la partie IX;
16. prescrire la limite, soit en dollars, soit en pourcentage, du total de l'actif qui peut être placé dans un bien ou une catégorie de biens et, lorsqu'une limite est imposée par la présente loi relativement à un bien ou à une catégorie de biens, prescrire des limites plus restrictives que celles énoncées à la présente loi;
17. prescrire le mode de calcul des liquidités de la compagnie;
18. régir la délivrance des titres subalternes;
19. régir l'établissement et l'exploitation des fonds en fiducie collectifs et le placement dans ces fonds des sommes détenues en fiducie;
20. exiger la souscription de cautionnements par les administrateurs, dirigeants, mandataires et employés de la compagnie ainsi que la souscription d'assurances à leur égard et à l'égard des biens dont elle a la propriété ou qui sont confiés à sa garde;
21. régir les activités de la compagnie inscrite dans le cadre de ses rapports avec ses mandataires, ainsi que les rapports entre ces derniers et la compagnie;
22. désigner des lois et des ordonnances pour l'application de l'alinéa 162 (2) a);
23. prescrire un pourcentage pour l'application de l'alinéa 168 (1) a);
24. régir l'établissement de réseaux par des compagnies inscrites aux fins de fournir des services financiers à leurs clients;

R.S.O. 1980,  
c. 466

25. prescribing information to be provided to security holders of a corporation and to persons on whose behalf a registered corporation holds securities of a body corporate as fiduciary or agent;
26. prescribing the conditions upon which a corporation may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*;
27. prescribing procedures related to the payment of unclaimed deposits to the Treasurer of Ontario under section 220 and for claiming them from the Treasurer, requiring provincial corporations to give notices to depositors in relation thereto and to keep such records thereof as are prescribed;
28. permitting registered corporations to make loans to employees as described in subsection 142 (2) and prescribing the maximum amount of any such loan; 
29. prescribing terms and conditions for the establishment and operation of subsidiaries;
30. relating to reports by auditors;
31. prescribing qualifications for appointment as an officer of a corporation;
32. prescribing duties for audit committees and investments committees;
33. prescribing any matter referred to in this Act as being prescribed by the regulations.

 Return of  
security

**224.** A corporation that was required by a private Act to post any amount as security as a condition of registration may apply to the Superintendent to have the security released and, if the Superintendent approves of the release, the security shall be returned to the corporation. 

Exemption  
from  
minimum  
capital  
requirements

**225.** The Superintendent may exempt a trust corporation that in other respects complies with this Act from compliance with the minimum capital requirements under subsection 10 (5) or clause 33 (a), subject to such terms and conditions as may be prescribed and to such terms and conditions as the Superintendent may impose, so long as the trust corporation is offering its services primarily in a community that, in the

25. prescrire les renseignements qui doivent être fournis aux détenteurs des valeurs mobilières d'une compagnie et aux personnes pour le compte desquelles la compagnie inscrite détient, à titre de fiduciaire ou de mandataire, des valeurs mobilières d'une personne morale;
26. prescrire les conditions sous lesquelles une compagnie peut investir ses fonds dans les actions assorties du droit de vote et entièrement libérées d'un courtier au sens de la *Loi sur les valeurs mobilières*;
27. prescrire des procédures relativement au versement au trésorier de l'Ontario des dépôts non réclamés aux termes de l'article 220 et relativement à la réclamation de ces dépôts auprès du trésorier, et exiger que les compagnies provinciales donnent des avis aux déposants à l'égard de ces questions et qu'elles conservent à ce sujet les dossiers qui sont prescrits;
28. permettre aux compagnies inscrites de consentir des prêts à leurs employés, aux termes du paragraphe 142 (2), et prescrire le montant maximal d'un tel prêt;
29. prescrire les conditions relatives à l'établissement et à l'exploitation de filiales;
30. régir les rapports des vérificateurs;
31. prescrire les qualités requises pour accéder au poste de dirigeant d'une compagnie;
32. prescrire les obligations qui incombent aux comités de vérification et aux comités de placements;
33. prescrire toute question qui selon la présente loi est prescrite par les règlements.

L.R.O. 1980,  
chap. 466

**224** La compagnie dont une condition de l'inscription, imposée par une loi d'intérêt privé, était de fournir un cautionnement peut demander au surintendant de faire libérer le cautionnement. Si le surintendant donne son approbation à la libération, le cautionnement est retourné à la compagnie.

Le cautionnement est retourné à la compagnie

**225** Sous réserve des conditions prescrites et de celles que peut imposer le surintendant, celui-ci peut dispenser la compagnie de fiducie qui s'est par ailleurs conformée à la présente loi de l'observation des normes de capital minimal fixées par le paragraphe 10 (5) ou par l'alinéa 33 a), tant que ses services sont offerts principalement à une collectivité dont les besoins,

Dispense d'observer les normes de capital minimal



opinion of the Superintendent, would not otherwise be adequately served by a trust corporation.

Transition,  
capital levels

**226.**—(1) Notwithstanding any other provision of this Act, where a corporation, immediately before the coming into force of clause 33 (a) of this Act, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, the minimum capital requirements under that clause shall not apply to the corporation until the 1st day of January, 1991 so long as the corporation maintains the minimum capital requirements required by the predecessor of this Act or such greater minimum capital requirements as the Lieutenant Governor in Council may order.

Extension  
of time

(2) The Lieutenant Governor in Council may extend the period for compliance with minimum capital requirements under clause 33 (a), beyond the 1st day of January, 1991, subject to such terms and conditions as the Lieutenant Governor in Council may impose.

Transition,  
directors

(3) Notwithstanding any other provision of this Act, the board of directors of a loan corporation or a trust corporation in office immediately before the coming into force of this section may continue in office until the annual meeting next following the coming into force of this section.

Transition,  
quantum  
limits  
on  
investments

(4) Notwithstanding that an investment was made by a registered corporation or any of its subsidiaries before the coming into force of this section, the corporation or subsidiary shall divest itself of the investment within twelve months of the coming into force of this section, if the investment, had it been made after the coming into force of this section, would exceed any limit imposed by section 163, 167 or 168.

Duration of  
authority to  
carry on  
business

**227.**—(1) No corporation shall carry on the business of a loan corporation or of a trust corporation after the 1st day of July, 1996.

Extension  
of time

(2) The Lieutenant Governor in Council may make regulations changing the date set out in subsection (1) to a date not later than the 1st day of July, 1997.

## PART XV

### AMENDMENTS, REPEALS, COMMENCEMENT, SHORT TITLE



**228.**—(1) Section 1 of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

de l'avis du surintendant, ne seraient pas autrement satisfaits de façon convenable par une compagnie de fiducie.

**226** (1) Malgré toute autre disposition de la présente loi, les normes de capital minimal fixées par l'alinéa 33 a) ne s'appliquent pas avant le 1<sup>er</sup> janvier 1991 à la compagnie qui était, immédiatement avant l'entrée en vigueur de cet alinéa, inscrite en vertu de la *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980. La présente disposition s'applique tant que la compagnie observe les normes de capital minimal fixées en vertu de la loi que la présente loi remplace, où les normes plus élevées décrétées par le lieutenant-gouverneur en conseil.

Dispositions  
transitoires  
relatives aux  
normes de  
capital

(2) Le lieutenant-gouverneur en conseil peut, sous réserve des conditions qu'il fixe éventuellement, proroger au-delà du 1<sup>er</sup> janvier 1991 le délai imparti aux compagnies pour se conformer aux normes de capital minimal fixées par l'alinéa 33 a).

Prorogation  
du délai

(3) Malgré toute autre disposition de la présente loi, le mandat des administrateurs de la compagnie de prêt ou de la compagnie de fiducie qui étaient en fonction immédiatement avant l'entrée en vigueur du présent article se poursuit jusqu'à l'assemblée annuelle qui suit l'entrée en vigueur du présent article.

Dispositions  
transitoires  
relatives aux  
administra-  
teurs

(4) Même dans le cas des placements effectués avant l'entrée en vigueur du présent article, la compagnie inscrite ou sa filiale est tenue de se dessaisir, dans les douze mois de l'entrée en vigueur du présent article, des placements dont le montant dépasserait la limite fixée par les articles 163, 167 ou 168, s'ils avaient été effectués après l'entrée en vigueur du présent article.

Dispositions  
transitoires,  
limite relative  
aux montants  
des  
placements

**227** (1) Nulle compagnie ne peut poursuivre les activités d'une compagnie de prêt ou d'une compagnie de fiducie au-delà du 1<sup>er</sup> juillet 1996.

Date limite  
de l'exercice  
de ses  
activités

(2) Le lieutenant-gouverneur en conseil peut, par règlement, porter la date fixée au paragraphe (1) à une date qui n'est pas postérieure au 1<sup>er</sup> juillet 1997.

Prorogation  
du délai

## PARTIE XV

### MODIFICATIONS, ABROGATIONS, ENTRÉE EN VIGUEUR, TITRE ABRÉGÉ



**228** (1) L'article 1 de la *Loi sur le ministère des Collèges et Universités*, qui constitue le chapitre 272 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

## Definitions

**1.** In this Act,

1980-81,  
c. 40 (Can.)  
1987, c. ...

R.S.O. 1980,  
c. 102


“financial institution” means a bank named in Schedule A or B to the *Bank Act* (Canada), a loan corporation or a trust corporation registered under the *Loan and Trust Corporations Act, 1987* or a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*;

“Minister” means the Minister of Colleges and Universities;

“Ministry” means the Ministry of Colleges and Universities.

(2) Subsection 8 (1) of the said Act is amended by striking out “chartered bank to which the *Bank Act* (Canada) applies, or by a credit union, as defined in the *Credit Unions and Caisses Populaires Act*” in the fifth, sixth and seventh lines and inserting in lieu thereof “financial institution”.

(3) Subsection 9 (1) and clauses 9 (2) (a), (c), (d), (h), (i) and (j) of the said Act are amended by striking out “bank or credit union” wherever that expression occurs and inserting in lieu thereof in each instance “financial institution”.


(4) Clauses 9 (2) (e), (f) and (g) of the said Act are amended by striking out “banks or credit unions” wherever that expression occurs and inserting in lieu thereof in each instance “financial institutions”. 

**229.** Subparagraph ii of paragraph 32 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- 1987, c. ...
- ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act, 1987* and consists of a common trust fund as defined in section 1 of that Act.

## Repeals

**230.** The following are repealed:

1. The *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980.
2. The *Loan and Trust Corporations Amendment Act, 1982*, being chapter 62.
3. Section 30 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64. 



**1.** In this Act,

Definitions

“financial institution” means a bank named in Schedule A or B to the *Bank Act* (Canada), a loan corporation or a trust corporation registered under the *Loan and Trust Corporations Act, 1987* or a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*;

1980-81,  
c. 40 (Can.)  
1987, c. ...

R.S.O. 1980,  
c. 102

“Minister” means the Minister of Colleges and Universities;

“Ministry” means the Ministry of Colleges and Universities.

(2) Le paragraphe 8 (1) de la loi est modifié par substitution, à “chartered bank to which the *Bank Act* (Canada) applies, or by a credit union, as defined in the *Credit Unions and Caisses Populaires Act*” aux cinquième, sixième et septième lignes, de “financial institution”.

(3) Le paragraphe 9 (1) et les alinéas 9 (2) a), c), d), h), i) et j) de la loi sont modifiés par substitution, à “bank or credit union” partout où figure cette expression, de “financial institution”.

(4) Les alinéas 9 (2) e), f) et g) de la loi sont modifiés par substitution, à “banks or credit unions” partout où figure cette expression, de “financial institutions”. ▲

**229** La sous-disposition ii de la disposition 32 du paragraphe 1 (1) de la *Loi sur les valeurs mobilières*, qui constitue le chapitre 466 des Lois refondues de l'Ontario de 1980, est abrogée et remplacée par ce qui suit :

- ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act, 1987* and consists of a common trust fund as defined in section 1 of that Act.

1987, c. ...

**230** Sont abrogées :

Abrogations

1. La *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980.
2. La *Loi de 1982 modifiant la Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 62.
3. L'article 30 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64. ▲

Commence-  
ment

**231.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**232.** The short title of this Act is the *Loan and Trust Corporations Act, 1987*.



**231** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en  
vigueur

**322** Le titre abrégé de la présente loi est *Loi de 1987 sur les compagnies de prêt et de fiducie*. Titre abrégé

-



# Bill 116

(Chapter 33  
*Statutes of Ontario, 1987*)

## An Act to revise the Loan and Trust Corporations Act

The Hon. M. Kwinter  
*Minister of Financial  
Institutions*

<i>1st Reading</i>	July 3rd, 1986
<i>2nd Reading</i>	November 13th, 1986
<i>3rd Reading</i>	May 28th, 1987
<i>Royal Assent</i>	June 29th, 1987

# Projet de loi 116

(Chapitre 33  
*Lois de l'Ontario de 1987*)

## Loi portant révision de la Loi sur les compagnies de prêt et de fiducie

L'honorable M. Kwinter  
*ministre des Institutions  
financières*

<i>1<sup>re</sup> lecture</i>	23 octobre 1986
<i>2<sup>e</sup> lecture</i>	13 novembre 1986
<i>3<sup>e</sup> lecture</i>	28 mai 1987
<i>sanction royale</i>	29 juin 1987

**Bill 116****1987**

**An Act to revise the  
Loan and Trust Corporations Act**

**Contents**

Part		Sections
I	Interpretation and Application	1-4
II	Incorporation and Instrument of Incorporation	5-13
III	Winding Up, Dissolution and Merger	14-29
IV	Registration	30-39
V	Shares and Shareholders	40-86
VI	Directors and Officers	87-112
VII	Auditors and Financial Statements	113-124
VIII	Books, Records and Returns	125-139
IX	Conflict of Interest	140-152
X	Business and Investments	153-176
XI	Administration	177-191
XII	Enforcement and Civil Remedies	192-212
XIII	Offences and Penalties	213-217
XIV	Miscellaneous and Regulations	218-227
XV	Amendments, Repeals, Commencement, Short title	228-232

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I**

**INTERPRETATION AND APPLICATION**

**Definitions**

**1. In this Act,**

“comptable” “accountant” means a person who is licensed under the R.S.O. 1980, *Public Accountancy Act*; c. 405

“membre du même groupe” “affiliate” means a body corporate that is an affiliate within the meaning of subsection 2 (1);

Projet de loi 116

1987

Loi portant révision de la  
Loi sur les compagnies de prêt et de fiducie

Table des matières

Partie	Articles
I Définitions et champ d'application	1-4
II Constitution et acte constitutif	5-13
III Liquidation, dissolution et fusion	14-29
IV Inscription	30-39
V Actions et actionnaires	40-86
VI Administrateurs et dirigeants	87-112
VII Vérificateurs et états financiers	113-124
VIII Livres, dossiers et rapports	125-139
IX Conflits d'intérêts	140-152
X Activités commerciales et placements	153-176
XI Application de la loi	177-191
XII Exécution et recours de nature civile	192-212
XIII Infractions et peines	213-217
XIV Dispositions diverses et règlements	218-227
XV Modifications, abrogations, entrée en vigueur, titre abrégé	228-232

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

PARTIE I

DÉFINITIONS ET CHAMP D'APPLICATION

**1** Les définitions qui suivent s'appliquent à la présente loi. Définitions

«acte constitutif» Loi spéciale, charte, lettres patentes ou autre document en vertu duquel une compagnie est constituée ou fusionnée, y compris les modifications y apportées. «instrument of incorporation»

«actif total» Actif d'une compagnie, calculé selon le mode prescrit. Dans le cas d'une compagnie de fiducie, s'entend en outre de la monnaie et des valeurs mobilières qui ont été mises à part aux termes du paragraphe 155 (5). «total assets»



“banque” 1980-81, c. 40 (Can.)	“bank” means a bank named in Schedule A or B to the <i>Bank Act</i> (Canada);
“filiale bancaire de crédit hypothé- caire”	“bank mortgage subsidiary” means a wholly-owned subsidiary of a bank that receives deposits that are guaranteed by the bank and whose investments in mortgages equal at least 85 per cent of its deposits;
“personne morale”	“body corporate” means any body corporate with or without share capital and wherever or however incorporated;
“succursale”	“branch” means an office of a corporation where it offers services to the public or where it provides fiduciary services;
“apport en capital”	“capital base” means the shareholders’ equity of a corporation calculated in the prescribed manner;
“fonds en fiducie collectif”	“common trust fund” means a fund maintained by a trust corporation in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment;
“corpora- tion”	“company” means a body corporate that is not a loan corporation, a trust corporation or a municipality or any local board thereof;
“compagnie”	“corporation” means a loan corporation or a trust corporation whether incorporated in or outside of Ontario;
“dépôt”	“deposit”, in relation to a registered corporation, means money received by it under section 155 and money received by it before the coming into force of section 155 that, had that section been in force when the money was received, would have been received under section 155;
“déposant”	“depositor” means a person who has a deposit in a corporation;
“directeur”	“Director” means the Director appointed under subsection 177 (2);
“compagnie extra- provinciale”	“extra-provincial corporation” means a corporation that was incorporated under the laws of Canada or of any province, other than Ontario, or of any territory of Canada;
“état financier”	“financial statement” means a statement referred to in subsection 120 (1);
“bien immeuble amélioré”	“improved real estate” means real estate,

- «action assortie du droit de vote» Action d'une personne morale d'une catégorie assortie d'un droit de vote absolu, ou d'une catégorie assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»
- «apport en capital» Avoir des actionnaires d'une compagnie, calculé selon le mode prescrit. «capital base»
- «ayant droit» Exécuteur, administrateur successoral, tuteur, syndic, fiduciaire, séquestre ou liquidateur, ou curateur à la personne ou aux biens d'une personne frappée d'incapacité mentale. «personal representative»
- «banque» Banque désignée à l'annexe A ou B de la *Loi sur les banques* (Canada). «bank» 1980-1981, chap. 40 (Can.)
- «bien immeuble amélioré» Bien immeuble : «improved real estate»
- a) sur lequel est érigé un bâtiment utilisé ou propre à servir à des fins domiciliaires, financières, commerciales, industrielles, éducatives, professionnelles, récréatives, institutionnelles ou religieuses, ou à des fins de bienfaisance;
  - b) sur lequel est en voie de construction ou sur le point de l'être un bâtiment propre à servir à des fins domiciliaires, financières, commerciales, industrielles, éducatives, professionnelles, récréatives, institutionnelles ou religieuses, ou à des fins de bienfaisance;
  - c) qui sert effectivement à une exploitation agricole;
  - d) qui est un terrain vague dans les limites d'une municipalité et dont les utilisations sont restreintes, notamment par les règlements relatifs au zonage, à des fins commerciales, industrielles ou domiciliaires.
- «biens immeubles» S'entend notamment des maisons, dépendances, terres, loyers et héritages, soit en franche ou en autre tenure, corporels ou incorporels, des tenures à bail et de la partie indivise de ces biens, de même que de tous les droits et domaines qui s'y rattachent, à l'exclusion des hydrocarbures, minéraux ou agrégats souterrains. «real estate»
- «compagnie» Compagnie de prêt ou de fiducie constituée en Ontario ou en dehors de cette province. «corporation»

- (a) on which there exists a building used or capable of being used for residential, financial, commercial, industrial, educational, professional, institutional, religious, charitable or recreational purposes,
- (b) on which a building capable of being used for residential, financial, commercial, industrial, professional, institutional, educational, religious, charitable or recreational purposes is being or is about to be constructed,
- (c) on which *bona fide* farming operations are being conducted, or
- (d) vacant land within a municipality that is restricted by law in its use to commercial, industrial or residential purposes by zoning or otherwise;

“acte  
constitutif”

“instrument of incorporation” means the special Act, charter, letters patent or other document incorporating or amalgamating a corporation and includes all amendments thereto;

“la loi de  
l’Ontario”

“law of Ontario” includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;

“valeur  
hypothé-  
cable”

“lending value”, in relation to real estate, means the market value of the real estate reduced by such amounts as are attributable to contingencies or assumptions the occurrence of which is remote and that have increased the market value of the real estate, multiplied by the lesser of,

- (a) 75 per cent, or
- (b) such percentage less than 75 per cent as the corporation has determined in accordance with its prudent investment standards to be appropriate in the circumstances;

“compagnie  
de prêt”

“loan corporation” means a body corporate incorporated or operated for the purpose of borrowing money from the public by receiving deposits and lending or investing such money but does not include a bank, a bank mortgage subsidiary, an insurance corporation, a trust corporation, a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act* or an issuer registered under the *Investment Contracts Act*;

- «compagnie de fiducie» Personne morale constituée ou exploitée aux fins d'offrir ses services au public en tant que fiduciaire, dépositaire, mandataire, exécuteur testamentaire, administrateur successoral, séquestre, liquidateur, cessionnaire, tuteur aux biens d'un enfant mineur ou curateur aux biens d'une personne frappée d'incapacité mentale et aux fins de recevoir les dépôts du public et d'effectuer le prêt ou le placement de ces dépôts. «trust corporation»
- «compagnie de prêt» Personne morale constituée ou exploitée aux fins d'effectuer des emprunts auprès du public en recevant des dépôts pour ensuite prêter ou placer les sommes reçues. Sont exclues de cette définition les banques, les filiales bancaires de crédit hypothécaire, les compagnies d'assurances, les compagnies de fiducie, les caisses populaires et les *credit unions* constituées ou enregistrées en vertu de la *Loi sur les caisses populaires et les credit unions*, ainsi que les compagnies de placement inscrites aux termes de la *Loi sur les contrats de placement*. L.R.O. 1980, chap. 102, 221
- «compagnie extraprovinciale» Compagnie constituée en vertu des lois du Canada, d'une province autre que l'Ontario, ou d'un territoire du Canada. «extra-provincial corporation»
- «compagnie inscrite» Compagnie inscrite aux termes de la présente loi. «registered corporation»
- «compagnie provinciale» Compagnie constituée en vertu de la loi de l'Ontario. «provincial corporation»
- «compagnie qui fait appel au public» Compagnie dont les valeurs mobilières font l'objet d'un appel au public au sens du paragraphe 2 (9) et qui n'est pas réputée avoir cessé de faire appel au public en vertu d'une ordonnance de la Commission des valeurs mobilières de l'Ontario. «offering corporation»
- «comptable» Personne qui est titulaire d'un permis délivré en vertu de la *Loi sur les experts-comptables*. «accountant» L.R.O. 1980, chap. 405
- «conjoint» Personne avec laquelle une personne du sexe opposé est mariée ou avec laquelle elle vit dans une union conjugale hors du mariage. «spouse»
- «corporation» Personne morale autre qu'une compagnie, une municipalité ou un conseil local d'une municipalité. «company»
- «déposant» Titulaire d'un dépôt auprès d'une compagnie. «depositor»
- «dépôt» En ce qui concerne une compagnie inscrite, les sommes d'argent qu'elle reçoit en vertu de l'article 155, ainsi que les sommes qu'elle a reçues avant l'entrée en vigueur «deposit»

- “valeur marchande” “market value” means the most probable price that would be obtained for property in an arm’s length sale in an open market under conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and willingly;
- “ministre” “Minister” means the Minister of Financial Institutions or other such member of the Executive Council to whom the administration of this Act may be assigned;
- “ministère” “Ministry” means the Ministry of the Minister;
- “hypothèque” “mortgage” includes a charge or hypothec;
- “compagnie qui fait appel au public” “offering corporation” means a corporation that is offering its securities to the public within the meaning of subsection 2 (9) and that is not the subject of an order of the Ontario Securities Commission deeming it to have ceased to be offering its securities to the public;
- “dirigeant” “officer” means the chairman and any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager and any other person designated an officer by by-law or by resolution of the directors and any other individual who performs functions for the corporation similar to those normally performed by an individual occupying any such office;
- “ayant droit” “personal representative” means an executor, administrator, guardian, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
- “prescrit” “prescribed” means prescribed by the regulations;
- “établissement principal” “principal place of business” means,
- (a) in the case of a provincial corporation, the place in Ontario designated in its instrument of incorporation as its head office or as its principal place of business, and
  - (b) in the case of a registered extra-provincial corporation, the place in Ontario designated in its registration as its principal place of business;
- “compagnie provinciale” “provincial corporation” means a corporation incorporated under the law of Ontario;



de cet article et qui auraient été reçues en vertu de celui-ci s'il avait été en vigueur au moment de la réception de ces sommes.

«directeur» Le directeur nommé en vertu du paragraphe 177 (2). «Director»

«dirigeant» Le président et le vice-président du conseil d'administration, le président, le vice-président, le secrétaire, le secrétaire adjoint, le trésorier, le trésorier adjoint et le directeur général de la compagnie, et la personne désignée en tant que dirigeant par un règlement intérieur ou une résolution des administrateurs. S'entend en outre du particulier qui remplit auprès de la compagnie des fonctions semblables aux fonctions normalement exercées par le titulaire d'un de ces postes. «officer»

«établissement principal» S'entend : «principal place of business»

- a) dans le cas de la compagnie provinciale, de l'endroit précis de l'Ontario qui figure à l'acte constitutif de la compagnie comme étant celui de son siège social ou de son établissement principal;
- b) dans le cas de la compagnie extraprovinciale inscrite, de l'endroit précis de l'Ontario désigné lors de son inscription comme étant celui de son établissement principal.

«état financier» État visé au paragraphe 120 (1). «financial statement»

«filiale bancaire de crédit hypothécaire» Filiale en propriété exclusive d'une banque, qui reçoit des dépôts qui sont garantis par la banque et dont les placements hypothécaires s'élèvent à 85 pour cent au moins de ses dépôts. «bank mortgage subsidiary»

«fonds en fiducie collectif» Fonds tenu par une compagnie de fiducie et constitué de sommes d'argent provenant de diverses successions et fiducies qui lui sont confiées et qui sont réunies dans le but d'en faciliter le placement. «common trust fund»

«hypothèque» S'entend en outre d'une charge et de l'hypothèque en droit civil. «mortgage»

«la loi de l'Ontario» S'entend en outre d'une loi de l'ancienne province du Canada ou du Haut-Canada maintenue en vigueur en tant que loi de l'Ontario, ou refondue ou incorporée à cette dernière. «law of Ontario»

«membre du même groupe» Personne morale qui est membre du même groupe au sens du paragraphe 2 (1). «affiliate»

“biens  
immeubles”

“real estate” includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein but does not include hydrocarbons, minerals or aggregates in or under the ground;

“compagnie  
inscrite”

“registered corporation” means a corporation registered under this Act;

“nominatif  
(nominative)”

“registered form”, when applied to a security, means a security that,

(a) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or

(b) bears a statement that it is in registered form;

“règlements”

“regulations” means the regulations made under this Act;

“résident  
canadien”

“resident Canadian” means an individual who is,

(a) a Canadian citizen ordinarily resident in Canada,

(b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or

1976-77,  
c. 52 (Can.)

(c) a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;

“personne  
assujettie à  
des restric-  
tions”

“restricted party” means a person who with respect to a corporation is,

(a) an officer or director of the corporation,

(b) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of the corporation,

(c) a beneficial holder of 10 per cent or more of any class of non-voting shares of the corporation,

(d) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of an affiliate of the corporation,

«ministère» Le ministère qui relève du ministre. «Ministry»

«ministre» Le ministre des Institutions financières ou un autre membre du Conseil des ministres à qui l'application de la présente loi peut être confiée. «Minister»

«nommatif (nominative)» S'il s'agit d'une valeur mobilière, celle qui : «registered form»

a) ou bien désigne nommément la personne qui est titulaire de cette valeur ou des droits qui y sont attestés et dont le transfert est susceptible d'être inscrit à un registre des valeurs mobilières;

b) ou bien porte la mention qu'elle est nominative.

«personne assujettie à des restrictions» S'entend de la personne qui, à l'égard d'une compagnie, est : «restricted party»

a) le dirigeant ou l'administrateur de la compagnie;

b) le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie d'actions de la compagnie assorties du droit de vote;

c) le détenteur à titre bénéficiaire de 10 pour cent ou plus d'une catégorie d'actions de la compagnie non assorties du droit de vote;

d) le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie d'actions assorties du droit de vote d'un membre du même groupe que la compagnie;

e) un membre du même groupe que la compagnie, mais n'est pas sa filiale;

f) l'employé de la compagnie;

g) le vérificateur de la compagnie, s'il exerce à titre individuel;

h) un associé de la société qui est le vérificateur de la compagnie, si cet associé participe effectivement à la vérification de la compagnie;

i) l'administrateur ou le dirigeant de la personne morale visée aux alinéas b) ou c);

- (e) an affiliate of the corporation other than a subsidiary of the corporation,
- (f) an employee of the corporation,
- (g) an auditor of the corporation, if the auditor is a sole practitioner,
- (h) a partner in the firm who are the corporation's auditors, if the partner is actually engaged in auditing the corporation,
- (i) a director or officer of a body corporate described in clause (b) or (c),
- (j) a spouse or child of an individual described in clause (a), (b), (c) or (d),
- (k) any relative of an individual described in clause (a), (b), (c) or (d) or of his or her spouse who has the same home as such individual or spouse,
- (l) a body corporate in which a person described in clause (a) or (b) is the beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares,
- (m) a body corporate in which a person described in clause (c), (f), (g), (h), (i) or (j) is the beneficial holder, directly or indirectly, of more than 50 per cent of any class of voting shares,
- (n) a person designated under section 140 as a restricted party;

"registre de valeurs mobilières"

"securities register" means the register referred to in subsection 127 (1);

"valeur mobilière"

"security" means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation and includes a warrant but does not include a deposit or any instrument evidencing a deposit in a corporation;

"résolution spéciale"

"special resolution" means a resolution that is,

- (a) submitted to a meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amend-

- j) le conjoint ou l'enfant du particulier visé aux alinéas a), b), c) ou d);
- k) un parent du particulier visé aux alinéas a), b), c) ou d) ou de son conjoint, qui habite avec le particulier ou avec le conjoint;
- l) la personne morale dont la personne visée aux alinéas a) ou b) est le détenteur à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus d'une catégorie quelconque d'actions assorties du droit de vote;
- m) la personne morale dont la personne visée aux alinéas c), f), g), h), i) ou j) est le détenteur à titre bénéficiaire, directement ou indirectement, de plus de 50 pour cent d'une catégorie quelconque d'actions assorties du droit de vote;
- n) la personne désignée en tant que personne assujettie à des restrictions en vertu de l'article 140.

«personne morale» Personne morale avec ou sans capital-actions sans égard au lieu ou au mode de constitution. «body corporate»

«prescrit» Prescrit par les règlements. «prescribed»

«registre de valeurs mobilières» Le registre visé au paragraphe 127 (1). «securities register»

«règlements» Les règlements pris en application de la présente loi. «regulations»

«résident canadien» S'entend : «resident Canadian»

- a) du citoyen canadien qui réside ordinairement au Canada;
- b) du citoyen canadien qui ne réside pas ordinairement au Canada, mais qui fait partie d'une catégorie prescrite de personnes;
- c) d'un résident permanent au sens de la *Loi sur l'immigration de 1976* (Canada) qui réside ordinairement au Canada, à l'exclusion d'un résident permanent qui a résidé de façon ordinaire au Canada pendant plus d'un an après avoir acquis pour la première fois le droit de demander la citoyenneté canadienne.

S.C.  
1976-1977,  
chap. 52  
(Can.)

«résolution spéciale» Résolution qui est : «special resolution»



ment, at the meeting by at least two-thirds of the votes cast, or

- (b) consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or the shareholder's agent authorized in writing;

"conjoint"	"spouse" means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage;
"titre subalterne"	"subordinated note" means a note issued under section 158;
"surintendant"	"Superintendent" means the Superintendent of Deposit Institutions appointed under this Act;
"actif total"	"total assets" means the assets of a corporation calculated in the prescribed manner and, in the case of a trust corporation, includes cash and securities earmarked and set aside under subsection 155 (5);
"compagnie de fiducie"	"trust corporation" means a body corporate incorporated or operated for the purpose of offering its services to the public to act as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate or committee of a mentally incompetent person's estate and for the purpose of receiving deposits from the public and of lending or investing such deposits;
"action assortie du droit de vote"	"voting share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

Deemed  
affiliation

**2.—(1)** For the purposes of this Act,

- (a) a body corporate shall be deemed to be affiliated with another body corporate if one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person; and

- a) soit proposée à une assemblée des actionnaires de la compagnie convoquée à cette fin et adoptée, avec ou sans amendements, aux deux tiers au moins des voix exprimées;
- b) soit adoptée du consentement écrit de chaque actionnaire de la compagnie habile à voter lors d'une telle assemblée, ou de son mandataire muni d'une autorisation écrite.

«succursale» Bureau de la compagnie, où elle offre des services au public ou fournit des services fiduciaires. «branch»

«surintendant» Le surintendant des institutions de dépôt nommé aux termes de la présente loi. «Superintendent»

«titre subalterne» Titre émis aux termes de l'article 158. «subordinated note»

«valeur hypothécable» Relativement à un bien immeuble, valeur marchande, déduction faite des montants qui tiennent compte des imprévus dont la survenance est improbable ou des prévisions dont la réalisation est improbable, mais qui ont fait augmenter la valeur marchande de l'immeuble, multipliée par le moins élevé des pourcentages suivants : «lending value»

a) 75 pour cent;

b) le pourcentage inférieur à 75 pour cent que la compagnie juge approprié dans les circonstances, conformément à ses normes de placements sûrs.

«valeur marchande» Le prix qui serait vraisemblablement obtenu lors de la vente du bien sur le marché libre, intervenue dans les conditions nécessaires pour en assurer l'équité, entre un vendeur et un acheteur prudents, avisés et consentants et n'ayant aucun lien de dépendance. «market value»

«valeur mobilière» Action d'une catégorie ou d'une série, titre de créance d'une personne morale et certificat qui en atteste l'existence. S'entend en outre du bon de souscription, à l'exclusion du dépôt ou de l'effet qui atteste le dépôt effectué auprès d'une compagnie. «security»

## 2 (1) Pour l'application de la présente loi :

- a) une personne morale est réputée un membre du même groupe qu'une autre si l'une est la filiale de l'autre ou si les deux sont des filiales de la même personne morale ou si une même personne a le contrôle de chacune d'elles;

Personne morale réputée membre du même groupe

- (b) the affiliates of every body corporate shall be deemed to be affiliated with all other bodies corporate with which the body corporate is affiliated.

Deemed  
control

(2) For the purposes of this Act, except sections 59 to 61, a body corporate shall be deemed to be controlled by a person if,

- (a) securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are held other than by way of security only by or for the benefit of that person; and
- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.

Deemed  
holding body  
corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be the holding body corporate of all of its subsidiaries.

Deemed  
subsidiaries

(4) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if,

- (a) it is controlled by,
  - (i) that other,
  - (ii) that other and one or more bodies corporate each of which is controlled by that other, or
  - (iii) two or more bodies corporate each of which is controlled by that other; or
- (b) it is a subsidiary within the meaning of clause (a) of a body corporate that is that other's subsidiary.

Beneficial  
ownership of  
securities

(5) For the purposes of this Act, a person shall be deemed to own beneficially securities that are beneficially owned by a body corporate controlled by the person.

"Down-  
stream"  
investments

(6) For the purposes of this Act, where a person owns beneficially, directly or indirectly, shares of a body corporate, the person shall be deemed to own beneficially that proportion of shares of every other body corporate that is owned beneficially, directly or indirectly, by the first-mentioned body corporate, that is equal to the proportion of shares of the first-mentioned body corporate that is owned beneficially, directly or indirectly, by the person.

- b) les membres du même groupe qu'une personne morale sont réputés membres des mêmes groupes que toutes les autres personnes morales avec lesquelles celle-ci est elle-même membre du même groupe.

(2) Pour l'application de la présente loi, à l'exception des articles 59 à 61, une personne morale est réputée être sous le contrôle d'une personne si :

Contrôle  
réputé

- a) d'une part, celle-ci détient ou est bénéficiaire autrement qu'à titre de garantie seulement, de valeurs mobilières de la personne morale qui comportent plus de 50 pour cent des voix qui peuvent être exprimées pour élire les administrateurs;
- b) d'autre part, le nombre de voix rattachées à ces valeurs mobilières suffit à élire une majorité d'administrateurs de cette personne morale.

(3) Pour l'application de la présente loi, une personne morale est réputée la personne morale mère à l'égard de chacune de ses filiales.

Personne  
morale mère  
réputée

(4) Pour l'application de la présente loi, une personne morale est réputée la filiale d'une autre si, selon le cas :

Filiales  
réputées

- a) elle est sous le contrôle :
  - (i) de cette autre personne morale,
  - (ii) de cette autre personne morale et d'une ou de plusieurs personnes morales qui sont toutes sous le contrôle de cette autre personne morale,
  - (iii) de deux personnes morales ou plus qui sont toutes sous le contrôle de cette autre personne morale;
- b) elle est la filiale au sens de l'alinéa a) d'une personne morale qui est elle-même la filiale de cette autre personne morale.

(5) Pour l'application de la présente loi, une personne est réputée propriétaire à titre bénéficiaire de valeurs mobilières dont une personne morale qui est sous le contrôle de cette personne est propriétaire à titre bénéficiaire.

Propriété  
à titre  
bénéficiaire  
de valeurs  
mobilières

(6) Pour l'application de la présente loi, la personne propriétaire à titre bénéficiaire, directement ou indirectement, d'actions d'une personne morale, est réputée propriétaire à

Placements  
en aval

Choice of  
rule

(7) Where subsections (5) and (6) may apply to a person, only the subsection under which the person is deemed to own beneficially the most securities applies to the person.

Exclusion

(8) Securities owned by a corporation shall not be considered in determining a person's deemed beneficial ownership of securities under subsection (5) or (6).

Offering  
securities  
to public

(9) For the purposes of this Act, a body corporate is offering its securities to the public only where,

R.S.O. 1980,  
c. 466

(a) in respect of any of its securities, a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof or a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or

(b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Ontario Securities Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a body corporate that has fewer than fifteen security holders, the Ontario Securities Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as it may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

Related  
persons

(10) For the purposes of sections 62 to 69, a person shall be deemed to be related to,

(a) every company or corporation of which the person beneficially owns, directly or indirectly, voting shares carrying more than 50 per cent of the voting rights attached to all voting securities of the company or corporation for the time being outstanding;



titre bénéficiaire d'un nombre d'actions de chacune des autres personnes morales dont la personne morale citée en premier lieu est propriétaire à titre bénéficiaire, directement ou indirectement, qui est proportionnel au nombre d'actions de cette dernière que cette personne détient au même titre.

(7) Si les paragraphes (5) et (6) peuvent s'appliquer à une personne, seul le paragraphe en vertu duquel la personne est réputée propriétaire à titre bénéficiaire du plus grand nombre de valeurs mobilières s'applique à elle.

Choix de la  
règle  
pertinente

(8) Dans la détermination des valeurs mobilières dont une personne est réputée propriétaire à titre bénéficiaire aux termes des paragraphes (5) ou (6), il n'est pas tenu compte de valeurs mobilières dont une compagnie est propriétaire.

Exclusion

(9) Pour l'application de la présente loi, une personne morale ne fait appel au public que dans l'un des cas suivants :

Appel au  
public

- a) elle a déposé à l'égard de ses valeurs mobilières, un prospectus, un exposé des faits pertinents ou une circulaire d'offre d'achat en bourse visant à la mainmise ou une circulaire d'offre de l'émetteur en vertu de la *Loi sur les valeurs mobilières* ou d'une loi que celle-ci remplace, ou elle a déposé un prospectus en vertu de *The Corporations Information Act*, qui constitue le chapitre 72 des Lois refondues de l'Ontario de 1960 ou d'une loi que celle-ci remplace, tant que sont en circulation ces mêmes valeurs mobilières ou celles qui résultent de leur conversion;
- b) certaines de ses valeurs mobilières ont été, à un moment donné depuis le 1<sup>er</sup> mai 1967, officiellement cotées à une bourse de l'Ontario reconnue par la Commission des valeurs mobilières de l'Ontario, sans égard à la date de leur inscription.

L.R.O. 1980,  
chap. 466

Toutefois, à la demande d'une personne morale comportant moins de quinze détenteurs de ses valeurs mobilières, lorsque la Commission est convaincue que le public n'en subira aucun préjudice, elle peut rendre une ordonnance, aux conditions qu'elle fixe, selon laquelle la personne morale est réputée avoir cessé de faire appel au public.

(10) Pour l'application des articles 62 à 69, une personne est réputée liée :

Personnes  
liées

- a) à la corporation ou compagnie à l'égard de laquelle elle est, directement ou indirectement, propriétaire à titre bénéficiaire d'actions comportant plus de 50 pour cent des droits de vote sur l'ensemble des valeurs mobilières de la corporation ou compagnie avec droit de vote en circulation;

- (b) every partner of the person;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity;
- (d) the spouse and every child of the person;
- (e) every relative of the person or of his or her spouse who has the same home as the person.

Application  
of Act

**3.—**(1) This Act applies to all corporations unless specifically limited to provincial corporations.

Idem

(2) Where there is a conflict between a provision of the instrument of incorporation of a provincial corporation or of any special Act of Ontario in relation to any corporation and a provision of this Act or the regulations, the provision of this Act or the regulations, as the case may be, prevails.

Non-  
application  
of Act

**4.** This Act does not apply to a body corporate that is authorized, constituted or operated for the purpose of lending money on the security of real estate or for the purpose of investing money in mortgages, where the body corporate borrows only by way of,

R.S.O. 1980,  
c. 102

- (a) loans from banks, corporations, insurance companies or credit unions or caisses populaires incorporated or registered under the *Credit Unions and Caisses Populaires Act*; or
- (b) the issue of debentures, notes or like obligations of an amount not less than \$100,000 each to any one person on the person's account, whereby the body corporate is not obligated or cannot by demand of the holder be obligated to repay the money secured by the debenture, note or obligation within five years from the date of its issue.

## PART II

### INCORPORATION AND INSTRUMENT OF INCORPORATION

Incorporation  
of a loan  
corporation

**5.** The Lieutenant Governor in Council may incorporate a loan corporation by the issue of letters patent upon the application of any one or more persons.

- b) à chacun des associés de cette personne;
- c) à la fiducie ou à la succession sur laquelle la personne a un droit important à titre bénéficiaire ou à l'égard de laquelle elle remplit les fonctions de fiduciaire ou des fonctions analogues;
- d) au conjoint et à chaque enfant de cette personne;
- e) à chaque parent de la personne ou de son conjoint, qui habite avec la personne.

**3** (1) La présente loi s'applique à toutes les compagnies, sauf les cas où elle ne vise expressément que les compagnies provinciales. Application de la présente loi

(2) La disposition pertinente de la présente loi ou des règlements prime en cas de conflit entre celle-ci et la disposition de l'acte constitutif d'une compagnie provinciale ou d'une loi spéciale de l'Ontario portant sur une compagnie. Idem

**4** La présente loi ne s'applique pas à la personne morale constituée ou exploitée dans le but de consentir des prêts de sommes d'argent garantis par des sûretés immobilières ou d'effectuer des placements sur hypothèque, si cette personne morale effectue des emprunts uniquement au moyen : Non-application de la loi

- a) d'emprunts effectués auprès de banques, de compagnies, de compagnies d'assurance ou de caisses populaires ou de *credit unions* constitués ou enregistrés en vertu de la *Loi sur les caisses populaires et les credit unions*; L.R.O. 1980, chap. 102
- b) de l'émission de débentures, billets ou autres titres de créance d'un montant d'au moins 100 000 \$ chacun au nom et pour le compte d'une seule personne, qui n'obligent pas la personne morale à rembourser la somme garantie dans les cinq ans de leur émission et qui ne l'obligent pas à ce faire à la demande du titulaire.

## PARTIE II

### CONSTITUTION ET ACTE CONSTITUTIF

**5** Le lieutenant-gouverneur en conseil peut constituer une compagnie de prêt par la délivrance de lettres patentes à la demande d'une ou de plusieurs personnes. Constitution d'une compagnie de prêt

Application  
for  
incorporation

**6.—**(1) An application for the issue of letters patent to incorporate a loan corporation shall follow the prescribed form and shall be filed with the Superintendent together with,

- (a) evidence showing that at least \$5,000,000 of common shares will be subscribed for in good faith at the time the letters patent are issued;
- (b) an application to be registered as a loan corporation; and
- (c) such other information, material and evidence as the form may specify.

Notices,  
additional  
information

(2) The Superintendent, upon the filing of an application for the issue of letters patent to incorporate a loan corporation,

- (a) shall require notice of the application and notice of the application for registration, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business is to be located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Restriction  
on issue of  
letters  
patent

**7.** Letters patent for the incorporation of a loan corporation shall not be issued unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) there exists a public benefit and advantage for establishing an additional loan corporation;
- (b) the proposed management is fit, both as to character and as to competence, to manage a loan corporation;
- (c) each person subscribing for 10 per cent or more of any class of shares of the proposed corporation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares;

**6** (1) La demande de délivrance de lettres patentes aux fins de constituer une compagnie de prêt est rédigée selon la formule prescrite, déposée auprès du surintendant et accompagnée :

Demande de constitution

- a) d'une preuve que des actions ordinaires seront souscrites de bonne foi, lors de la délivrance des lettres patentes, pour un montant d'au moins 5 000 000 \$;
- b) d'une demande d'inscription à titre de compagnie de prêt;
- c) des autres renseignements, documents et pièces justificatives précisés dans la formule.

(2) Lors du dépôt d'une demande de délivrance de lettres patentes aux fins de constituer une compagnie de prêt, le surintendant :

Avis, renseignements supplémentaires

- a) doit exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où sera situé l'établissement principal de la compagnie, un avis de la demande, ainsi qu'un avis de la demande d'inscription qui reproduit tous les renseignements que le surintendant précise;
- b) peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces justificatives qu'il juge nécessaires.

**7** Il ne doit pas être délivré de lettres patentes pour la constitution d'une compagnie de prêt, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les conditions suivantes sont réunies :

Restrictions portant sur la délivrance de lettres patentes

- a) qu'il est avantageux pour le public d'établir une nouvelle compagnie de prêt;
- b) que les membres proposés pour assumer la direction de la compagnie projetée sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie de prêt;
- c) que chacune des personnes qui souscrit 10 pour cent ou plus des actions d'une catégorie de la compagnie projetée est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie;



- (d) each proposed director is fit, both as to character and as to competence, to be a director of a loan corporation;
- (e) the proposed plan of operations is feasible; and
- (f) the proposed corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for incorporation.

Contents of  
letters patent

**8.** The letters patent of a loan corporation shall set out,

- (a) the name of the corporation;
- (b) the municipality or geographic township in Ontario where the principal place of business is to be located;
- (c) the classes and any maximum number of shares that the corporation is authorized to issue and the rights, privileges, restrictions and conditions attaching to each class of shares; and
- (d) the full name, address of residence, citizenship and occupation of,
  - (i) each of the first directors of the corporation,
  - (ii) every person who subscribed for 10 per cent or more of any class of shares of the corporation, and
  - (iii) each of the applicants.

Day of  
incorporation

**9.** A provincial loan corporation comes into existence on the day set out in its letters patent.

Supple-  
mentary  
letters  
patent

**10.—(1)** On the application of a provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation,

- (a) to change its name;
- (b) in the case of a provincial loan corporation, to continue it as a trust corporation;
- (c) in the case of a provincial trust corporation, to continue it as a loan corporation; or

- d) que chacun des futurs administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie de prêt;
- e) que le programme d'exploitation projeté est réalisable;
- f) que la compagnie projetée se propose d'offrir au public dès sa constitution ou dans un délai raisonnable par la suite, les services énoncés dans la demande de constitution.

**8** Les lettres patentes d'une compagnie de prêt énoncent : Teneur des lettres patentes

- a) sa dénomination sociale;
- b) la municipalité ou le canton en Ontario où sera situé son établissement principal;
- c) les catégories et le nombre maximal d'actions que la compagnie est autorisée à émettre ainsi que les droits, privilèges, restrictions et conditions rattachés à chaque catégorie;
- d) les nom et prénoms au complet, l'adresse personnelle, la citoyenneté ainsi que la profession de :
  - (i) chacun des premiers administrateurs de la compagnie,
  - (ii) chaque personne qui a souscrit 10 pour cent ou plus des actions d'une catégorie,
  - (iii) chacun des auteurs de la demande.

**9** La compagnie de prêt provinciale prend naissance à la date indiquée dans ses lettres patentes. Date de constitution

**10** (1) Le lieutenant-gouverneur en conseil peut, à la demande d'une compagnie provinciale, délivrer des lettres patentes supplémentaires aux fins d'apporter à l'acte constitutif de la compagnie les modifications suivantes : Lettres patentes supplémentaires

- a) le changement de sa dénomination sociale;
- b) s'il s'agit d'une compagnie de prêt provinciale, sa prorogation en tant que compagnie de fiducie;
- c) s'il s'agit d'une compagnie de fiducie provinciale, sa prorogation en tant que compagnie de prêt;

- (d) to change the municipality or geographic township in which the principal place of business of the corporation is located.

Idem

(2) On the application of the corporations involved, the Lieutenant Governor in Council may issue letters patent to amalgamate the corporations and continue them as one provincial corporation.

Idem

(3) On the application of any provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation to,

- (a) add, change or remove any maximum number of shares that the corporation is authorized to issue;
- (b) create new classes of shares;
- (c) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;
- (d) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (e) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (f) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (g) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series; and
- (h) revoke, diminish or enlarge any authority conferred under clauses (f) and (g).

Special  
resolution

(4) No application shall be made under subsection (1) or (3) unless it has been authorized by a special resolution of the provincial corporation.

- d) le transfert de l'établissement principal de la compagnie dans une autre municipalité ou un autre canton.

(2) À la demande des compagnies intéressées, le lieutenant-gouverneur en conseil peut délivrer des lettres patentes aux fins de la fusion de ces compagnies et de leur prorogation comme une seule compagnie provinciale. Idem

(3) À la demande d'une compagnie provinciale, le lieutenant-gouverneur en conseil peut délivrer des lettres patentes supplémentaires aux fins d'apporter à l'acte constitutif de la compagnie les modifications suivantes : Idem

- a) ajouter, modifier ou supprimer un nombre maximal d'actions que la compagnie est autorisée à émettre;
- b) créer de nouvelles catégories d'actions;
- c) changer la désignation de la totalité ou d'une partie de ses actions et ajouter, modifier ou supprimer tous droits, privilèges, restrictions et conditions, y compris le droit à des dividendes accumulés, concernant la totalité ou une partie de ses actions, émises ou non;
- d) changer le nombre d'actions, émises ou non, d'une catégorie ou d'une série ou les changer de catégorie ou de série;
- e) diviser en séries une catégorie d'actions, émises ou non, en indiquant le nombre d'actions par série, ainsi que les droits, privilèges, restrictions ou conditions qui s'y rattachent;
- f) autoriser les administrateurs à diviser en séries une catégorie d'actions non émises, en indiquant le nombre d'actions par série, ainsi que les droits, privilèges, restrictions et conditions qui s'y rattachent;
- g) autoriser les administrateurs à modifier les droits, privilèges, restrictions et conditions rattachés aux actions non émises d'une série;
- h) révoquer ou modifier les autorisations données aux termes des alinéas f) et g).

(4) Aucune demande ne doit être présentée en vertu des paragraphes (1) ou (3) à moins d'avoir été autorisée par résolution spéciale de la compagnie provinciale. Résolution spéciale

## Application

(5) An application for the issue of supplementary letters patent shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify and, in the case of an application under clause (1) (b), evidence that,

- (a) the stated capital account or accounts of the corporation is or are equal to or exceed \$5,000,000 and the capital base of the corporation equals or exceeds \$10,000,000; or
- (b) one or more responsible applicants has subscribed in good faith for shares of the corporation so that, when issued and added to the stated capital account or accounts, the stated capital account or accounts will equal or exceed \$10,000,000 and the capital base will equal or exceed \$10,000,000.

## Idem

(6) An application for the issue of supplementary letters patent under clause (1) (b) or (c) shall be accompanied by an application for registration as a trust corporation or loan corporation, as the case may be.

Notice,  
additional  
information

(7) The Superintendent, upon the filing of an application for supplementary letters patent,

- (a) may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business in Ontario of the corporation is located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Rejection of  
application

(8) Supplementary letters patent shall not be issued,

- (a) to continue a provincial loan corporation as a provincial trust corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
  - (i) there exists a public benefit and advantage for continuing the corporation as a trust corporation,



(5) La demande de délivrance de lettres patentes supplémentaires est rédigée selon la formule prescrite et est déposée auprès du surintendant, accompagnée des renseignements, documents et pièces justificatives qui sont précisés dans la formule, et dans le cas de la demande aux termes de l'alinéa (1) b), de la preuve que l'une des conditions suivantes est remplie :

Demande

- a) le compte capital déclaré de la compagnie, ou le total de ces comptes, atteint ou dépasse 5 000 000 \$, et son apport en capital atteint ou dépasse 10 000 000 \$;
- b) l'un ou plusieurs des auteurs de la demande, dignes de confiance, ont de bonne foi souscrit des actions de la compagnie de sorte que le montant émis, ajouté à la fois au compte ou aux comptes capital déclaré et à l'apport en capital, donnera un produit qui atteint ou dépasse 10 000 000 \$ dans chaque cas.

(6) La demande de délivrance de lettres patentes supplémentaires aux termes des alinéas (1) b) ou c) est accompagnée d'une demande d'inscription en tant que compagnie de fiducie ou compagnie de prêt, selon le cas.

Idem

(7) Lors du dépôt d'une demande de lettres patentes supplémentaires, le surintendant :

Avis, renseignements supplémentaires

- a) peut exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est situé l'établissement principal de la compagnie, un avis qui reproduit les renseignements que précise le surintendant;
- b) peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces justificatives qu'il juge nécessaires.

(8) Des lettres patentes supplémentaires ne sont pas délivrées aux fins :

Rejet de la demande

- a) de proroger une compagnie de prêt provinciale en compagnie de fiducie provinciale, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les conditions suivantes sont réunies :
  - (i) qu'il est avantageux pour le public que la compagnie soit prorogée en compagnie de fiducie,

- (ii) the management of the applicant is fit, both as to character and as to competence, to manage a trust corporation,
  - (iii) each person subscribing for 10 per cent or more of any class of shares of the corporation or who holds, or upon the issue of the supplementary letters patent will hold, 10 per cent or more of any class of its shares can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - (iv) each director of the applicant is fit, both as to character and as to competence, to be a director of a trust corporation,
  - (v) the proposed plan of operations as a trust corporation is feasible, and
  - (vi) the corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for supplementary letters patent;
- (b) to continue a provincial trust corporation as a provincial loan corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that arrangements have been made to transfer to another registered trust corporation the business in relation to which the provincial trust corporation acted as a fiduciary and such arrangements are adequate to protect the persons in relation to which the provincial trust corporation acted in a fiduciary capacity;
  - (c) to change the municipality or geographic township in which the principal place of business of a provincial corporation is located unless it is shown to the satisfaction of the Lieutenant Governor in Council that the proposed plan of operations in the new location is feasible.

Deposits

(9) Clause (8) (b) does not apply so as to require a trust corporation that has applied to be continued as a loan corporation to transfer money received by it as deposits.

- (ii) que les membres de la direction de l'auteur de la demande sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie de fiducie,
  - (iii) que chaque personne qui souscrit 10 pour cent ou plus des actions d'une catégorie, ou qui détient ou, lors de la délivrance des lettres patentes supplémentaires, détiendra 10 pour cent ou plus des actions d'une catégorie, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
  - (iv) que chacun des administrateurs de l'auteur de la demande est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie de fiducie,
  - (v) que le programme d'exploitation de la compagnie en tant que compagnie de fiducie est réalisable,
  - (vi) que la compagnie se propose d'offrir au public, dès sa constitution ou dans un délai raisonnable par la suite, les services énoncés dans la demande de lettres patentes supplémentaires;
- b) de proroger une compagnie de fiducie provinciale en compagnie de prêt provinciale, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que les arrangements qui ont été pris afin de céder les activités qu'elle exerce en qualité de fiduciaire à une autre compagnie de fiducie inscrite suffisent à assurer la protection des personnes qu'elle représentait en cette qualité;
  - c) de transférer l'établissement principal d'une compagnie provinciale dans une autre municipalité ou un autre canton, à moins qu'il ne soit démontré à la satisfaction du lieutenant-gouverneur en conseil que son programme d'exploitation projeté au nouvel endroit est réalisable.

(9) L'alinéa (8) b) n'a pas pour effet d'obliger une compagnie de fiducie qui demande sa prorogation en compagnie de prêt à effectuer le transfert des sommes d'argent qu'elle a reçues à titre de dépôts.

Dépôts

Idem

(10) Where supplementary letters patent have been issued to continue a loan corporation as a trust corporation,

- (a) deposits received by the loan corporation under clause 155 (1) (a) shall be deemed to be deposits received under clause 155 (2) (a); and
- (b) deposits received by the loan corporation under clause 155 (1) (b) shall be deemed to be deposits received under clause 155 (2) (b).

Idem

(11) Where supplementary letters patent have been issued to continue a trust corporation as a loan corporation,

- (a) deposits received by the trust corporation under clause 155 (2) (a) shall be deemed to be deposits received under clause 155 (1) (a); and
- (b) deposits received by the trust corporation under clause 155 (2) (b) shall be deemed to be deposits received under clause 155 (1) (b).

Names

**11.**—(1) Subject to subsection (2), letters patent or supplementary letters patent shall not be issued to a corporation that has a name,

- (a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;
- (b) that is the same or similar to,
  - (i) the name of a known,
    - (A) body corporate,
    - (B) trust,
    - (C) association,
    - (D) partnership,
    - (E) sole proprietorship, or
    - (F) individual,

whether in existence or not, or

(10) Lorsque des lettres patentes supplémentaires ont été <sup>Idem</sup> délivrées aux fins de proroger une compagnie de prêt en une compagnie de fiducie :

- a) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) a) sont réputés reçus en vertu de l'alinéa 155 (2) a);
- b) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) b) sont réputés reçus en vertu de l'alinéa 155 (2) b).

(11) Lorsque des lettres patentes supplémentaires ont été <sup>Idem</sup> délivrées aux fins de proroger une compagnie de fiducie en compagnie de prêt :

- a) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) a) sont réputés reçus en vertu de l'alinéa 155 (1) a);
- b) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) b) sont réputés reçus en vertu de l'alinéa 155 (1) b).

**11** (1) Sous réserve du paragraphe (2), il n'est pas délivré <sup>Dénominations sociales</sup> de lettres patentes ou de lettres patentes supplémentaires à la compagnie dont la dénomination sociale :

- a) reproduit un mot ou une expression prohibés par la présente loi ou les règlements, ne les reproduit pas alors qu'ils sont requis ou qui pour un autre motif n'est pas conforme à la présente loi ou aux règlements;
- b) est identique ou semblable :

(i) à la dénomination sociale ou au nom :

- (A) d'une personne morale,
- (B) d'une fiducie,
- (C) d'une association,
- (D) d'une société en nom collectif,
- (E) d'une entreprise personnelle,
- (F) d'un particulier,

qui est connu, qu'il existe ou non,



- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive;  
or

- (c) that in the case of a trust corporation does not include,

- (i) “trust” or “fiducie” together with a designation such as “corporation”, “company”, “compagnie”, “limited”, “limitée” or “société”, or

- (ii) “trustco”.

Idem

(2) Notwithstanding clause (1) (b), a corporation may have a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Bilingual  
names

(3) Subject to this Act and the regulations, a corporation may have a name in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated by any such name.

Change of  
name if  
objectionable

(4) Where, through inadvertence or otherwise, a provincial corporation has obtained a name contrary to this section, the Lieutenant Governor in Council, on the recommendation of the Superintendent, may issue supplementary letters patent changing the name of the corporation to a name specified in the supplementary letters patent.

Hearing

(5) Before making a recommendation under subsection (4), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Decision is  
final

**12.—**(1) The decision of the Lieutenant Governor in Council to approve or reject an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 145 is final and not subject to appeal, but nothing in this subsection prevents an applicant from making a new application.

- (ii) à la dénomination sociale ou au nom connus sous lesquels une personne morale, une fiducie, une association, une société en nom collectif, une entreprise personnelle ou un particulier s'identifie ou exerce ses activités commerciales,

si l'emploi de la dénomination sociale ou du nom peut s'avérer trompeur;

- c) dans le cas d'une compagnie de fiducie, ne reproduit pas les mots :

- (i) soit «trust» ou «fiducie», ainsi qu'une désignation telle que «corporation», «company», «compagnie», «limited», «limitée» ou «société»,

- (ii) soit «trustco».

(2) Malgré l'alinéa (1) b), la compagnie qui s'est conformée aux conditions prescrites peut porter la dénomination sociale énoncée au sous-alinéa (1) b) (i) ou (ii). Idem

(3) Sous réserve de la présente loi et des règlements, la compagnie peut avoir une dénomination sociale anglaise, une dénomination sociale française, une dénomination sociale dans chacune de ces deux langues ou une dénomination sociale qui présente une combinaison des deux langues. La compagnie peut être légalement désignée par n'importe laquelle de ses dénominations sociales. Dénominations sociales bilingues

(4) Le lieutenant-gouverneur en conseil peut, sur la recommandation du surintendant, délivrer à la compagnie provinciale qui, par mégarde ou autrement, s'est vu attribuer une dénomination sociale non conforme aux dispositions du présent article, des lettres patentes supplémentaires modifiant sa dénomination sociale pour y substituer celle qui figure aux lettres patentes supplémentaires. Modification d'une dénomination sociale contestable

(5) Avant de faire la recommandation visée au paragraphe (4), le surintendant donne à la compagnie l'occasion de se faire entendre. Audience

**12** (1) Est définitive et sans appel la décision du lieutenant-gouverneur en conseil d'approuver ou de rejeter une demande de lettres patentes, de lettres patentes supplémentaires, de décret de reconstitution ou une demande de consentement aux termes de l'article 145. Il est toutefois loisible à l'auteur de la demande d'en présenter une nouvelle. Décision définitive

Notice

(2) Where the Lieutenant Governor in Council approves or rejects an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 145, the Superintendent shall forthwith notify the applicant in writing.

Powers of corporation

**13.** Subject to this Act and any terms, conditions and restrictions imposed on its registration, a provincial corporation,

- (a) has the capacity and the rights, powers and privileges of a natural person; and
- (b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit.

### PART III

#### WINDING UP, DISSOLUTION AND MERGER

Winding up  
R.S.O. 1980,  
c. 95

**14.** Except where Part VI of the *Corporations Act* is inconsistent with this Act, that Part applies to the winding up of a provincial corporation, substituting the word "Superintendent" for the word "Minister".

Cancellation  
for non-use

**15.—**(1) Where a provincial corporation fails to go into *bona fide* operation within two years of the date of incorporation or having done so it ceases *bona fide* operation for a period of two consecutive years, the Lieutenant Governor in Council, on the recommendation of the Superintendent and upon such terms and conditions as the Lieutenant Governor in Council considers appropriate, may order the cancellation of the instrument of incorporation of the corporation and it is dissolved on the date fixed in the order.

Hearing

(2) Before making a recommendation under subsection (1), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Revival

(3) Where a provincial corporation has been dissolved under subsection (1), the Lieutenant Governor in Council may revive the corporation by order, upon the application therefor of any interested person.

Issue

(4) Upon the date set out in an order under subsection (3), the corporation, subject to such terms and conditions as may be set out in the order, is revived and, subject to any rights

(2) Lorsque le lieutenant-gouverneur en conseil approuve ou rejette la demande de lettres patentes, de lettres patentes supplémentaires, de décret de reconstitution ou la demande de consentement aux termes de l'article 145, le surintendant en informe sans délai par écrit l'auteur de la demande.

Avis

**13** Sous réserve de la présente loi et des conditions et restrictions rattachées à son inscription, la compagnie provinciale :

Pouvoirs de la compagnie

- a) a la capacité, les droits, pouvoirs et privilèges d'une personne physique;
- b) a la capacité d'exploiter son entreprise, de diriger ses affaires et d'exercer ses pouvoirs dans une compétence législative autre que l'Ontario, dans les limites des lois de cette compétence législative.

### PARTIE III

#### LIQUIDATION, DISSOLUTION ET FUSION

**14** Sauf dans la mesure où la partie VI de la *Loi sur les compagnies et associations* est incompatible avec les dispositions de la présente loi, cette partie s'applique à la liquidation d'une compagnie provinciale, le mot «surintendant» étant alors substitué au mot «ministre».

Liquidation  
L.R.O. 1980,  
chap. 95

**15** (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du surintendant et aux conditions que le lieutenant-gouverneur en conseil juge pertinentes, ordonner l'annulation de l'acte constitutif de la compagnie provinciale dont l'exploitation effective n'a pas débuté dans les deux ans de sa constitution ou, ayant ainsi débuté, a été interrompue par la suite pendant deux années consécutives. La compagnie est alors dissoute à la date qui figure dans le décret.

Annulation  
faute d'ex-  
ploitation

(2) Avant de faire la recommandation visée au paragraphe (1), le surintendant donne à la compagnie l'occasion de se faire entendre.

Audience

(3) Le lieutenant-gouverneur en conseil peut, à la demande d'une personne intéressée, prendre un décret de reconstitution de la compagnie provinciale dissoute aux termes du paragraphe (1).

Reconstitution

(4) À la date fixée dans le décret pris aux termes du paragraphe (3) et aux conditions qui y sont énoncées, la compagnie est reconstituée. Celle-ci, sous réserve des droits acquis

Délivrance



acquired by any person after the dissolution, the corporation is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Actions after  
dissolution

**16.**—(1) Notwithstanding the dissolution of a provincial corporation under section 15,

- (a) every proceeding commenced in or before any court or tribunal by or against the corporation, its officers or directors before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a proceeding may be brought in or before any court or tribunal against the corporation, its officers or directors within five years after its dissolution as if the corporation had not been dissolved; and
- (c) all real or personal property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after  
dissolution

(2) For the purposes of this section, the service of any process on a provincial corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the public file referred to in section 139 as being a director or officer of the corporation before the dissolution.

Idem

(3) Where any proceeding has been brought against a provincial trust corporation after its dissolution, notice of the commencement of the proceeding, together with the originating process by which the proceeding was commenced, shall be served upon the Public Trustee.

Liability of  
shareholders  
to creditors

**17.**—(1) Notwithstanding the dissolution of a provincial corporation under section 15, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 16 to the extent of the amount received by that shareholder upon the distribution, and a proceeding to enforce such liability may be commenced within five years after the date of the dissolution of the corporation.

Idem

(2) The court hearing an action referred to in subsection (1) may order the action to be brought against the persons who



par une autre personne après la dissolution, recouvre son statut juridique premier de même que ses biens, droits, privilèges et concessions et est assujettie de nouveau et dans la même mesure aux obligations, contrats, incapacités et dettes qui existaient lors de la dissolution, comme si celle-ci n'avait pas eu lieu.

**16** (1) Malgré la dissolution de la compagnie aux termes de l'article 15 :

Recours après  
la dissolution

- a) l'instance introduite devant un tribunal judiciaire ou administratif par la compagnie ou contre elle, ses dirigeants ou ses administrateurs avant sa dissolution peut être poursuivie comme si la dissolution n'avait pas eu lieu;
- b) une instance peut être introduite devant un tribunal judiciaire ou administratif contre la compagnie, ses dirigeants ou ses administrateurs dans les cinq ans qui suivent sa dissolution comme si celle-ci n'avait pas eu lieu;
- c) les biens meubles et immeubles sur lesquels un jugement ou une ordonnance auraient pu être exécutés à défaut de la dissolution peuvent toujours servir à cette fin.

(2) Pour l'application du présent article, la signification à la compagnie provinciale de tout acte de procédure après la dissolution est réputée régulière, si elle est faite à l'un des administrateurs ou des dirigeants inscrit comme tel au dossier public visé à l'article 139 immédiatement avant la dissolution.

Signification  
après la  
dissolution

(3) Doivent être signifiés au Curateur public l'acte introductif ainsi que l'avis qui l'accompagne, dans le cas où une instance est introduite après la dissolution de la compagnie provinciale.

Idem

**17** (1) Malgré la dissolution de la compagnie provinciale aux termes de l'article 15, les actionnaires entre lesquels ont été répartis les biens de la compagnie engagent leur responsabilité, jusqu'à concurrence de la somme reçue, envers la personne qui invoque l'article 16. L'instance en recouvrement peut être introduite dans les cinq ans qui suivent la dissolution.

Responsabilité  
des actionnaires  
envers les  
créanciers

(2) Le tribunal qui entend l'instance visée au paragraphe (1) peut ordonner qu'elle soit dirigée contre les actionnaires en

Idem

were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes a claim, the court may refer the proceedings to a referee or other officer of the court.

Idem (3) Where a reference is made under subsection (2), the referee or other officer may,

- (a) add as a party to the proceedings before him or her each person who was a shareholder found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and
- (c) direct payment of the amounts so determined.

Definition "actionnaire" (4) In this section, "shareholder" includes the heirs and personal representatives of a shareholder.

Forfeiture of undisposed property **18.**—(1) All property of a provincial corporation that has not been disposed of at the date of its dissolution whether under this or any other Act is forfeit to the Crown.

Trust property (2) All property that immediately before the dissolution of a provincial trust corporation was being held in trust by it shall be delivered forthwith by the persons who were its officers and directors before its dissolution to the Public Trustee.

Idem (3) Where property is not delivered as required by subsection (2), the Public Trustee may do such things as may be necessary to obtain the property.

Idem (4) All property received by the Public Trustee under subsections (2) and (3) shall be held in trust by the Public Trustee for the beneficiaries of the trusts.

Property available to satisfy order of court or tribunal (5) Where an order is made in a proceeding referred to in section 16 and the order affects property forfeited to the Crown under subsection (1), the property shall be available to satisfy the order.

Amalgamation **19.**—(1) Two or more corporations, of which at least one is a provincial corporation, may amalgamate and continue as one provincial corporation or as one extra-provincial corporation.

tant que groupe, sous réserve des conditions qu'il juge pertinentes. Si le demandeur établit le bien-fondé de sa demande, le tribunal peut renvoyer la question à un arbitre ou autre officier de justice.

(3) Dans le cas du renvoi visé au paragraphe (2), l'arbitre ou l'autre officier de justice peut :

- a) joindre comme partie à l'instance chaque personne qui est un ancien actionnaire reconnu à ce titre par le demandeur;
- b) déterminer, sous réserve du paragraphe (1), la part que chaque ancien actionnaire doit verser pour indemniser le demandeur;
- c) ordonner le versement des sommes déterminées.

(4) Dans le présent article, «actionnaire» s'entend en outre de l'héritier et de l'ayant droit.

Idem

Définition «shareholder»

**18** (1) Sont dévolus à la Couronne les biens de la compagnie provinciale qui n'ont pas été aliénés lors de sa dissolution en vertu de la présente loi ou d'une autre loi.

Dévolution

(2) Les personnes qui étaient les dirigeants et administrateurs de la compagnie de fiducie provinciale lors de sa dissolution remettent sans délai au Curateur public les biens détenus en fiducie par celle-ci immédiatement avant la dissolution.

Biens en fiducie

(3) Le Curateur public peut prendre les mesures nécessaires aux fins de se faire livrer les biens qui n'ont pas été remis conformément au paragraphe (2).

Idem

(4) Le Curateur public détient en fiducie, pour le compte de leurs titulaires, les biens qu'il reçoit aux termes des paragraphes (2) et (3).

Idem

(5) Les biens dévolus à la Couronne en vertu du paragraphe (1) et sur lesquels porte l'ordonnance rendue lors de l'instance visée à l'article 16 peuvent servir à l'exécution de cette ordonnance.

Les biens peuvent servir à l'exécution de l'ordonnance

**19** (1) Plusieurs compagnies, dont l'une au moins est une compagnie provinciale, peuvent fusionner en une seule compagnie provinciale ou en une seule compagnie extraprovinciale, et être ainsi prorogées.

Fusion

- Asset sale (2) A provincial corporation may sell all or substantially all of its assets to a corporation incorporated in Canada if the purchasing corporation assumes all or substantially all of the liabilities of the provincial corporation.
- Asset purchase (3) A provincial corporation may purchase all or substantially all of the assets of a corporation incorporated in Canada if the provincial corporation assumes all or substantially all of the liabilities of the vendor corporation.
- Compulsory acquisitions 1982, c. 4 (4) Part XV of the *Business Corporations Act*, 1982 applies with necessary modifications with respect to every provincial corporation as if it were incorporated under that Act.
- Mandatory agreement **20.**—(1) Where corporations propose to amalgamate or purchase or sell assets under section 19, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation or purchase and sale.
- When agreement effective (2) An agreement for the amalgamation of corporations or the purchase or sale of all or substantially all of the assets of a corporation does not take effect until all approvals required by this Part have been given.
- Contents of agreement, amalgamation (3) Where corporations propose to amalgamate the agreement referred to in subsection (1) shall set out,
- (a) the proposed name of the amalgamated corporation;
  - (b) the municipality or geographic township in Ontario and the address, including street name and number, if any, where the principal place of business of the amalgamated corporation is to be located;
  - (c) the classes of shares that the amalgamated corporation may issue and the rights and privileges, restrictions and conditions attaching to each class of share;
  - (d) the full name, address of residence, citizenship and occupation,
    - (i) of each of the first directors of the amalgamated corporation,
    - (ii) of every person who will hold immediately upon the amalgamation 10 per cent or more of any class of the shares of the amalgamated corporation;

(2) Une compagnie provinciale peut vendre la totalité ou la quasi-totalité de ses éléments d'actif à une compagnie constituée au Canada, à condition que la compagnie acheteuse en assume la totalité ou la quasi-totalité du passif.

Vente des  
éléments  
d'actif

(3) Une compagnie provinciale peut acheter la totalité ou la quasi-totalité des éléments d'actif d'une compagnie constituée au Canada, à condition d'en assumer la totalité ou la quasi-totalité du passif.

Achat des  
éléments  
d'actif

(4) La partie XV de la *Loi de 1982 sur les compagnies* s'applique avec les adaptations nécessaires à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée aux termes de cette loi.

Acquisitions  
forcées  
1982, chap. 4

**20** (1) Chacune des compagnies qui se proposent de fusionner, d'acheter ou de vendre des éléments d'actif aux termes de l'article 19, conclut une convention qui énonce les modalités soit de la fusion, soit de l'achat et de la vente.

Convention  
obligatoire

(2) La convention, soit de fusion de compagnies, soit d'achat ou de vente de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie, n'a pas d'effet avant d'avoir reçu toutes les approbations exigées par la présente partie.

Prise d'effet  
de la  
convention

(3) La convention visée au paragraphe (1) conclue par les compagnies qui se proposent de fusionner énonce :

Teneur de la  
convention de  
fusion

- a) la dénomination sociale projetée de la compagnie issue de la fusion;
- b) la municipalité ou le canton en Ontario ainsi que l'adresse, y compris le numéro du bâtiment et le nom de la rue, le cas échéant, où sera situé l'établissement principal de la compagnie issue de la fusion;
- c) les catégories d'actions que la compagnie issue de la fusion est autorisée à émettre, ainsi que les droits, privilèges, restrictions et conditions rattachés à chaque catégorie;
- d) les nom et prénoms au complet, l'adresse personnelle, la citoyenneté ainsi que la profession :
  - (i) de chacun des premiers administrateurs de la compagnie issue de la fusion,
  - (ii) de chaque personne qui, dès la fusion, détendra 10 pour cent ou plus des actions d'une catégorie de la compagnie issue de la fusion;



- (e) the manner of converting the shares of the amalgamating corporations into shares of the amalgamated corporation or of exchanging shares of the amalgamating corporations for shares of the amalgamated corporation;
- (f) such other details as may be necessary to complete the amalgamation and to provide for the management and operation of the amalgamated corporation; and
- (g) the proposed effective date of the amalgamation.

Idem

(4) Where one of the amalgamating corporations owns shares of another of the amalgamating corporations, other than in a fiduciary capacity, the agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares or other securities of the amalgamated corporation.

Submission  
of agreement

(5) An agreement to amalgamate corporations or to purchase or sell all or substantially all of the assets of a corporation to another corporation shall be submitted to the shareholders of each corporation holding voting shares for their approval at a meeting thereof to be held separately for the purpose of taking the agreement into consideration.

Submission  
of offer

(6) Where an offer has been made to a corporation with respect to the purchase of all or substantially all of its assets and no agreement is reached, the offer, at the request of the corporation making the offer, shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the offer into consideration.

Notice of  
meeting

(7) Each corporation required by subsection (5) or (6) to hold a meeting shall deliver notice of the meeting and a copy of the agreement or offer to the Superintendent at least twenty-one days before the meeting.

Proceedings  
to approve  
agreement

**21.** At each of the meetings required by subsection 20 (5) or (6), the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued voting shares of the corporation are present in person or represented by proxy and the agreement or offer is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary of each corporation.

- e) le mode de conversion des actions des compagnies qui fusionnent en actions de la compagnie issue de la fusion, ou le mode d'échange des actions des compagnies qui fusionnent contre les actions de la compagnie issue de la fusion;
- f) les autres précisions nécessaires pour réaliser la fusion et prévoir la gestion et l'exploitation de la compagnie issue de la fusion;
- g) la date de prise d'effet de la fusion.

(4) Si l'une des compagnies qui fusionnent possède, sauf à titre de fiduciaire, des actions de l'une des autres compagnies, la convention prévoit l'annulation de ces actions dès la prise d'effet de la fusion, sans remboursement de capital à leur égard. La convention ne doit pas prévoir la conversion de ces actions en actions ou en autres valeurs mobilières de la compagnie issue de la fusion.

Idem

(5) La convention, soit de fusion des compagnies, soit d'achat ou de vente de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie en faveur d'une autre, est soumise à l'approbation des actionnaires détenteurs d'actions assorties du droit de vote de chacune des compagnies, lors d'assemblées tenues séparément dans le but d'examiner la convention.

Présentation  
de la  
convention

(6) Si l'offre d'achat de la totalité ou de la quasi-totalité de ses éléments d'actif présentée à une compagnie ne fait pas l'objet d'une convention, cette offre, à la demande de la compagnie qui en est l'auteur, est soumise à l'approbation des actionnaires de chacune des compagnies lors d'assemblées tenues séparément dans le but d'examiner l'offre.

Présentation  
de l'offre

(7) Au moins vingt et un jours avant la tenue de l'assemblée obligatoire visée aux paragraphes (5) ou (6), chaque compagnie tenue de convoquer cette assemblée fait parvenir au surintendant un avis de convocation de l'assemblée ainsi qu'un exemplaire de la convention ou de l'offre.

Avis de  
l'assemblée

**21** La convention ou l'offre est examinée lors de chacune des assemblées dont les paragraphes 20 (5) ou (6) exigent la tenue. Si, à chacune de ces assemblées, les détenteurs d'au moins 50 pour cent des actions émises et assorties du droit de vote de la compagnie assistent en personne ou par fondé de pouvoir et que la convention ou l'offre est approuvée par résolution adoptée par le vote affirmatif des détenteurs d'au moins les trois quarts des actions qui y sont représentées, le secrétaire de chacune des compagnies atteste ce fait sur la convention ou l'offre.

Procédure  
d'approbation  
de la  
convention

Dispensing  
with approval

**22.—**(1) The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the approval of the agreement or offer by the shareholders of the purchasing corporation if the Lieutenant Governor in Council is satisfied that the shareholders, entitled to vote thereon, have approved a general resolution or by-law authorizing the purchase of the assets of any corporation upon the basis and within the limits specified in such agreement or offer.

When offer  
becomes  
agreement

(2) An offer to which subsection 20 (6) applies shall be deemed for all purposes to be an agreement when it has been certified by the secretary of the vendor corporation under section 21 and either it has been certified by the secretary of the purchasing corporation as required by that section or the approval of the offer by the shareholders of the purchasing corporation has been dispensed with under subsection (1).

Submission  
to  
Lieutenant  
Governor in  
Council

**23.—**(1) If the agreement is approved and certified in accordance with section 21 by each of the corporations or, in the case provided for in section 22, by the shareholders of the vendor corporation, the agreement, with the certificates or certificate thereon, shall be filed with the Superintendent and the Superintendent shall submit the agreement to the Lieutenant Governor in Council for approval.

Idem

(2) In the case of an amalgamation, an agreement filed under subsection (1) shall be accompanied by an application for initial registration under subsection 31 (1) for the amalgamated corporation and, if the amalgamated corporation will be a provincial corporation, by an application for supplementary letters patent.

Notice,  
information

(3) The Superintendent, upon the filing of an agreement and before submitting the agreement to the Lieutenant Governor in Council,

- (a) shall require notice of the agreement, containing such information as the Superintendent may require, to be published by the parties to the agreement in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and in the case of an amalgamation, in the locality where the principal place of business of the amalgamated corporation is to be located; and
- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

**22** (1) Dans le cas d'un achat projeté d'éléments d'actif, le lieutenant-gouverneur en conseil peut dispenser la compagnie acheteuse de solliciter l'approbation de ses actionnaires s'il est convaincu que les actionnaires ayant le droit de voter à cet égard ont adopté une résolution générale ou un règlement intérieur autorisant l'achat des éléments d'actif d'une compagnie selon les modalités et dans les limites précisées dans la convention ou dans l'offre.

Dispense  
d'approbation

(2) L'offre visée au paragraphe 20 (6) est réputée une convention lorsqu'elle a été attestée aux termes de l'article 21 par le secrétaire de la compagnie venderesse et, à moins que la compagnie acheteuse n'ait été dispensée de solliciter l'approbation de ses actionnaires en vertu du paragraphe (1), également attestée par le secrétaire de cette dernière.

Offre trans-  
formée en  
convention

**23** (1) La convention qui a reçu l'approbation et l'attestation de chacune des compagnies conformément à l'article 21 ou, dans le cas prévu à l'article 22, des actionnaires de la compagnie venderesse, est déposée, pourvue du ou des certificats exigés, auprès du surintendant. Ce dernier la présente au lieutenant-gouverneur en conseil pour son approbation.

Présentation  
au lieute-  
nant-gouver-  
neur en  
conseil

(2) Dans le cas de fusion, la convention déposée aux termes du paragraphe (1) est accompagnée d'une demande de première inscription aux termes du paragraphe 31 (1) relative à la compagnie issue de la fusion et, si celle-ci doit être une compagnie provinciale, d'une demande de lettres patentes supplémentaires.

Idem

(3) Lors du dépôt de la convention et avant sa présentation au lieutenant-gouverneur en conseil, le surintendant :

Avis, rensei-  
gnements

- a) doit exiger que les parties à la convention publient dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est situé le principal établissement de chaque compagnie, l'avis de convention qui reproduit tous les renseignements qu'il exige. Dans le cas de fusion, cette publication a également lieu à l'endroit où sera situé l'établissement principal de la compagnie issue de la fusion;
- b) peut exiger que les parties à la convention fournissent les renseignements, documents et pièces qu'il estime nécessaires, outre ceux dont la production est exigée en vertu d'une autre disposition de la présente loi.



Refusal of  
approval

(4) The Lieutenant Governor in Council shall refuse approval of the agreement unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the case of an amalgamation,
  - (i) there exists a public benefit and advantage for the amalgamation of the corporations,
  - (ii) the proposed management is fit, both as to character and as to competence, to manage the amalgamated corporation,
  - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the amalgamated corporation immediately after the amalgamation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - (iv) each proposed first director is fit as to character and as to competence to be a director of the amalgamated corporation,
  - (v) the proposed plan of operations for the amalgamated corporation is feasible, and
  - (vi) the amalgamated corporation intends to offer to the public, initially or within a reasonable time after the amalgamation, the services set out in the amalgamation agreement;
- (b) in the case of a purchase and sale of assets,
  - (i) there exists a public benefit and advantage if the purchase and sale is completed,
  - (ii) the proposed plan of operations for the purchasing corporation upon the closing of the purchase agreement is feasible;
- (c) in the case where one of the parties to the agreement is a trust corporation and the amalgamated or purchasing corporation is a loan corporation, the arrangements referred to in subsection 29 (2) are adequate to protect the persons in relation to which the trust corporation, before the approval of the agreement, is acting in a fiduciary capacity; and



(4) Le lieutenant-gouverneur en conseil refuse son approbation à la convention, à moins qu'il ne soit démontré à sa satisfaction :

Refus d'approbation

a) dans le cas d'une fusion :

- (i) que celle-ci est avantageuse pour le public,
- (ii) que les membres proposés pour en assumer la direction sont aptes, du point de vue de la moralité et de la compétence, à gérer la compagnie issue de la fusion,
- (iii) que chaque personne qui, dès la fusion, détiendra 10 pour cent ou plus des actions d'une catégorie de la compagnie issue de la fusion, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
- (iv) que chacun des futurs premiers administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès de la compagnie issue de la fusion,
- (v) que le programme d'exploitation projeté de la compagnie issue de la fusion est réalisable,
- (vi) que la compagnie issue de la fusion se propose d'offrir au public dès la fusion ou dans un délai raisonnable par la suite, les services énoncés dans la convention de fusion;

b) dans le cas d'achat et de vente d'éléments d'actif :

- (i) qu'il est avantageux pour le public de parfaire l'achat et la vente,
- (ii) que le programme d'exploitation de la compagnie acheteuse projeté à la suite de la conclusion de la convention d'achat est réalisable;

c) si l'une des parties à la convention est une compagnie de fiducie et que la compagnie issue de la fusion ou la compagnie acheteuse est une compagnie de prêt, les arrangements visés au paragraphe 29 (2) suffisent à assurer la protection des personnes que la compagnie de fiducie représentait en cette qualité avant l'approbation de la convention;

- (d) where the amalgamated corporation is a loan corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$5,000,000 or, where the amalgamated corporation is a trust corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$10,000,000.

Definition  
"certificat du  
surintendant"

**24.—**(1) In this section, "Superintendent's certificate" means a certificate issued under subsection (2).

Superinten-  
dent's  
certificate

(2) Where the Lieutenant Governor in Council approves an agreement submitted under subsection 23 (1), the Superintendent shall issue a certificate certifying,

- (a) that the approval of the Lieutenant Governor in Council has been given and the date of the approval;
- (b) in the case of a purchase or sale of assets, the name of each corporation that is a party to the transaction and whether the party is a vendor or a purchaser;
- (c) in the case of an amalgamation, the names of the corporations that are amalgamating, the name of the amalgamated corporation and the date upon which the amalgamation takes effect; and
- (d) such other matters, if any, as in the opinion of the Lieutenant Governor in Council are necessary or desirable in the public interest.

Effect as  
evidence

(3) A Superintendent's certificate is *prima facie* proof of all matters set out therein.

Notice

(4) Notice of the issue of a Superintendent's certificate shall be published in *The Ontario Gazette* by the Superintendent.

Certificate of  
Superin-  
tendent

(5) Any document signed by or purportedly signed by the Superintendent, certifying the document to be or to contain a true copy of the Superintendent's certificate or of any instrument referred to in the certificate, may be registered in any land registry office upon it being tendered for registration accompanied by the proper fee, if any.

Registration

(6) It is sufficient in order to show the vesting of land or interests in land in the continuing corporation to register a certified copy of the Superintendent's certificate in each land registry office in which instruments affecting land or interests in land, included or intended to be included in the amalgamation or purchase and sale, are registered.

- d) si la compagnie issue de la fusion est une compagnie de prêt, la compagnie issue de la fusion aura, dès la fusion, un apport en capital d'au moins 5 000 000 \$ ou, si la compagnie issue de la fusion est une compagnie de fiducie, un apport en capital d'au moins 10 000 000 \$.

**24** (1) Dans le présent article, «certificat du surintendant» s'entend du certificat délivré aux termes du paragraphe (2).

Définition  
«Superintendent's  
certificate»

(2) Lorsque le lieutenant-gouverneur en conseil a approuvé une convention présentée aux termes du paragraphe 23 (1), le surintendant délivre un certificat qui atteste ce qui suit :

Certificat du  
surintendant

- a) l'approbation du lieutenant-gouverneur en conseil ainsi que la date où il l'a donnée;
- b) dans le cas d'achat ou de vente d'éléments d'actif, la dénomination sociale de chacune des parties ainsi que sa qualité de venderesse ou d'acheteuse;
- c) dans le cas de fusion, les dénominations sociales des compagnies qui fusionnent, celle de la compagnie issue de la fusion ainsi que la date de mise à effet de la fusion;
- d) les autres éléments qui, de l'avis du lieutenant-gouverneur en conseil, sont nécessaires ou souhaitables dans l'intérêt public.

(3) Le certificat du surintendant fait foi *prima facie* de son contenu.

Force  
probante

(4) Le surintendant publie un avis de délivrance du certificat dans la *Gazette de l'Ontario*.

Avis

(5) Le document qui porte ou qui se présente comme portant la signature du surintendant, et qui atteste qu'il constitue ou reproduit une copie certifiée conforme du certificat du surintendant ou de l'acte auquel il est renvoyé dans le certificat, peut être enregistré à tout bureau d'enregistrement immobilier dès sa présentation à cette fin, accompagné des droits exigés, le cas échéant.

Certificat du  
surintendant

(6) Aux fins de signaler que des biens-fonds ou des droits fonciers sont acquis à la compagnie prorogée, il suffit d'enregistrer une copie certifiée conforme du certificat du surintendant dans chaque bureau d'enregistrement immobilier où sont enregistrés les actes qui concernent les biens-fonds ou les droits fonciers compris dans la fusion ou l'achat et la vente ou censés en faire partie.

Enregistrem

Security  
interest  
R.S.O. 1980,  
c. 375

(7) For the purposes of the *Personal Property Security Act*, it is sufficient, in order to show the vesting in the continuing corporation of any interest in personal property that constitutes a security interest within the meaning of that Act and for which one of the amalgamating corporations is shown as a secured party in any financing statement registered under that Act, for a financing change statement to be registered in respect of the vesting as if the interest had been assigned.

Assets of  
vendor  
corporation  
vest in  
purchasing  
corporation

**25.**—(1) In the case of a purchase of all or substantially all of the assets of a corporation that has been approved by the Lieutenant Governor in Council, the assets purchased from the vendor corporation become vested in the purchasing corporation on and from the date of the approval without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the vendor corporation assumed under the agreement.

Disposal of  
assets by  
purchasing  
corporation

(2) In dealing with the assets of the vendor corporation, it is sufficient for the purchasing corporation to recite the agreement, the approval of the Lieutenant Governor in Council thereto and the date of approval.

Rights of  
creditors

**26.**—(1) A sale of the assets of a corporation does not affect the rights of any creditor of the vendor corporation.

Privity of  
contract  
between  
purchasing  
corporation  
and creditors  
of vendor  
corporation

(2) An agreement made or purporting to be made under this Act to purchase all or substantially all of the assets of a corporation shall be deemed to contain, in relation to the liabilities assumed under the agreement, an agreement with each creditor of the vendor corporation that the purchasing corporation will pay to the creditor the amount of the vendor corporation's liability to the creditor at such time and place as the amount that would have been payable had the agreement to purchase not been made.

Dissolution  
of vendor  
corporation

(3) The vendor corporation is dissolved from the date of the approval by the Lieutenant Governor in Council of the agreement to sell all or substantially all of its assets, except so far as is necessary to give full effect to the agreement or unless the Lieutenant Governor in Council orders otherwise.

Amalgama-  
tion

**27.**—(1) In the case of an amalgamation,

- (a) if the amalgamated corporation is a provincial corporation, the parties to the amalgamation, from the date set out in the letters patent of amalgamation, shall continue as one provincial corporation under the name stated in the letters patent;



(7) Pour l'application de la *Loi sur les sûretés mobilières*, aux fins de signaler que des droits mobiliers qui constituent des sûretés au sens de cette loi sont acquis à la compagnie prorogée, et que l'une des compagnies qui fusionnent figure en tant que créancier garanti de ces sûretés dans un état de financement enregistré aux termes de cette loi, il suffit d'enregistrer un état de modification du financement comme s'il y avait eu cession de la sûreté.

Sûretés  
L.R.O. 1980,  
chap. 375

**25** (1) Lorsque l'achat de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie a été approuvé par le lieutenant-gouverneur en conseil, les éléments d'actif achetés de la compagnie venderesse sont acquis à la compagnie acheteuse, sans autre forme de cession, à compter de la date de l'approbation. La compagnie acheteuse devient alors responsable des éléments du passif de la compagnie venderesse qu'elle assume aux termes de la convention.

Éléments  
d'actif de la  
compagnie  
venderesse  
acquis à la  
compagnie  
acheteuse

(2) En négociant les éléments d'actif de la compagnie venderesse, il suffit que la compagnie acheteuse cite la convention, l'approbation du lieutenant-gouverneur en conseil et la date de cette approbation.

Aliénation  
des éléments  
d'actif par la  
compagnie  
acheteuse

**26** (1) La vente des éléments d'actif de la compagnie venderesse ne porte pas atteinte aux droits de ses créanciers.

Droits des  
créanciers

(2) La convention conclue aux termes de la présente loi, ou se présentant comme étant ainsi conclue, en vue de l'achat de la totalité ou de la quasi-totalité des éléments d'actif d'une compagnie est réputée assortie, en ce qui concerne les éléments du passif qui sont assumés aux termes de la convention, d'une convention conclue avec chacun des créanciers de la compagnie venderesse en vertu de laquelle la compagnie acheteuse s'acquittera envers le créancier du montant de l'obligation de la compagnie venderesse à la date et au lieu auxquels la compagnie venderesse aurait dû verser ce montant, n'était cette convention d'achat.

Lien de droit  
contractuel  
entre la compa-  
gnie acheteuse  
et les créanciers  
de la compagnie  
venderesse

(3) La compagnie venderesse est dissoute à compter de la date de l'approbation par le lieutenant-gouverneur en conseil de la convention de vente de la totalité ou de la quasi-totalité des éléments de son actif, sauf dans la mesure nécessaire pour mettre la convention à effet et sauf décret contraire du lieutenant-gouverneur en conseil.

Dissolution  
de la  
compagnie  
venderesse

**27** (1) Dans le cas de fusion :

Fusion

- a) si la compagnie issue de la fusion est une compagnie provinciale, les parties qui fusionnent sont, à compter de la date fixée dans les lettres patentes de fusion, prorogées comme une seule compagnie provinciale qui porte la dénomination sociale énoncée dans les lettres patentes;



- (b) if the amalgamated corporation is an extra-provincial corporation, every provincial corporation that is a party to the agreement is, from the effective date of the amalgamation under the laws of the jurisdiction under which the continuing corporation is incorporated, amalgamated with the other parties to the agreement and it shall continue with them as one corporation;
- (c) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal liabilities, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (d) a conviction against, or ruling, order or judgment in favour of or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (e) the letters patent of amalgamation are deemed to be the instrument of incorporation of the amalgamated corporation; and
- (f) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil proceeding commenced by or against an amalgamating corporation before the amalgamation has become effective.

Continuation  
in another  
jurisdiction

(2) Where the amalgamating corporations are to continue as one extra-provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction specified in the amalgamation agreement for an instrument amalgamating and continuing them as one corporation under the laws of that jurisdiction and, incidental to the application, every provincial corporation that is a party to the agreement may apply to the proper officer of that jurisdiction for an instrument continuing it as if it had been incorporated under the laws of that jurisdiction.

Acquisition  
of assets or  
amalgamation  
by purchase  
of shares

**28.**—(1) In addition to its powers under section 19, for the purpose of either acquiring the assets of any other corporation in Canada or amalgamating with any such corporation under this Part, a corporation may purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

- b) si la compagnie issue de la fusion est une compagnie extraprovinciale, chacune des compagnies provinciales partie à la convention est, à compter de la date de mise à effet de la fusion selon les lois du territoire de constitution de la compagnie issue de la fusion, fusionnée avec les autres parties à la convention et toutes sont prorogées comme une seule compagnie;
- c) les biens, droits, privilèges et concessions de chacune des compagnies qui fusionnent passent à la compagnie issue de la fusion à qui sont alors imposés les obligations, contrats, incapacités et dettes de celles-ci de même que toute responsabilité civile, pénale ou quasi-pénale;
- d) toute décision judiciaire ou quasi-judiciaire rendue en faveur d'une compagnie qui fusionne ou contre elle peut être exécutée par la compagnie issue de la fusion ou à l'encontre de celle-ci;
- e) les lettres patentes de fusion sont réputées l'acte constitutif de la compagnie issue de la fusion;
- f) la compagnie issue de la fusion est réputée partie demanderesse ou partie défenderesse, selon le cas, dans toute instance civile engagée avant la mise à effet de la fusion par une compagnie qui fusionne ou à l'encontre de celle-ci.

(2) Si les compagnies qui fusionnent continuent leur existence comme une seule compagnie extraprovinciale et qu'un certain nombre seulement des parties à la convention de fusion sont des compagnies provinciales, les parties à cette convention peuvent s'adresser au fonctionnaire attitré auprès de la compétence législative indiquée à la convention en vue d'obtenir un acte constitutif les fusionnant et prorogeant leur existence comme une seule compagnie en vertu des lois de cette compétence législative. À la suite de cette demande, chacune des compagnies provinciales parties à la convention peut également s'adresser à ce fonctionnaire en vue d'obtenir un acte constitutif qui proroge la compagnie comme si elle avait été constituée en vertu des lois de cette compétence législative.

Prorogation  
sous le  
régime d'une  
autre  
compétence  
législative

**28** (1) Outre les pouvoirs qui lui sont attribués par l'article 19, et en vue d'acquérir des éléments d'actif d'une autre compagnie au Canada ou de fusionner avec cette dernière en vertu de la présente partie, une compagnie peut acheter au moins 67 pour cent des actions en circulation de cette compagnie, sous réserve des conditions suivantes :

Acquisition  
des éléments  
d'actif ou  
fusion au  
moyen de l'achat d'actions

1. No such purchase shall be made except with the prior approval of the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council shall deny approval unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
  - i. there exists a public benefit and advantage for the purchase,
  - ii. the management of the purchasing corporation is fit both as to character and as to competence, to manage the corporation as it will exist after it completes the purchase of the assets or the amalgamation,
  - iii. each person who holds 10 per cent or more of any class of shares of the purchasing corporation can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,
  - iv. each director is fit as to character and as to competence to be a director of the corporation as it will exist after it completes the purchase of the assets or the amalgamation, and
  - v. the proposed plan of operations for the corporation as it will exist after it completes the purchase of the assets or the amalgamation is feasible.
3. The Lieutenant Governor in Council may approve the purchase where,
  - i. an offer to purchase shares has been accepted,
    - A. in writing by the holders of at least 67 per cent of the outstanding voting shares of such other corporation, or
    - B. by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding voting shares of each class of such corporation at a general meeting of the shareholders thereof, and

1. L'achat doit recevoir l'approbation préalable du lieutenant-gouverneur en conseil.
2. Le lieutenant-gouverneur en conseil rejette la demande, à moins qu'il ne soit convaincu que les conditions suivantes sont réunies :
  - i. que cet achat est avantageux pour le public,
  - ii. que les membres de la direction de la compagnie acheteuse sont aptes, du point de vue de la moralité et de la compétence, à gérer celle-ci conformément à la constitution qu'aura la compagnie dès que sera parfait l'achat des éléments d'actif ou la fusion,
  - iii. que chaque personne qui détient 10 pour cent ou plus des actions d'une catégorie de la compagnie acheteuse, est en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,
  - iv. que chacun des administrateurs est apte, du point de vue de la moralité et de la compétence, à exercer cette fonction auprès de la compagnie conformément à la constitution qu'aura la compagnie dès que sera parfait l'achat des éléments d'actif ou la fusion,
  - v. qu'est réalisable le programme d'exploitation projeté de la compagnie envisagé selon la constitution qu'elle aura dès que sera parfait l'achat des éléments d'actif ou la fusion.
3. Le lieutenant-gouverneur en conseil peut donner son approbation à l'achat lorsque :
  - i. d'une part, l'offre d'achat des actions a été acceptée :
    - A. soit par écrit par les détenteurs d'au moins 67 pour cent des actions en circulation assorties du droit de vote de l'autre compagnie,
    - B. soit par résolution adoptée par le vote affirmatif des actionnaires détenant au moins 67 pour cent des actions en circulation assorties du droit de vote de chaque catégorie, exprimé lors d'une assem-

- ii. the offer to purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued voting shares of the corporation are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
4. A corporation may purchase shares under this section notwithstanding any other provision of this Act so long as the provisions of this section are satisfied.
5. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been approved by the Lieutenant Governor in Council proceed under this Part either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or amalgamate with the other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time.
6. After the expiration of the period referred to in paragraph 5 and every extension thereof, the Superintendent may direct the corporation to dispose of the shares.

Consideration  
for shares

(2) The consideration for the shares acquired under this section may be cash or securities of the purchasing corporation or may be partly cash and partly securities of the purchasing corporation or may be such other consideration as may be agreed upon.

No power to  
purchase own  
shares

(3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

Application

(4) A corporation purchasing shares under this section shall file an application for the approval required by subsection (1) with the Superintendent.

Notice,  
information

(5) The Superintendent, upon the filing of an application for the approval required by subsection (1),

- (a) shall require notice of the purchase, containing such information as the Superintendent may require, to



blée générale des actionnaires de cette compagnie,

- ii. d'autre part, l'offre d'achat a été présentée lors d'une assemblée générale des actionnaires de la compagnie acheteuse, à laquelle les détenteurs d'au moins 50 pour cent des actions émises de la compagnie assorties du droit de vote assistaient en personne ou par fondé de pouvoir et que l'achat a été approuvé par résolution adoptée par le vote affirmatif des détenteurs d'au moins les trois quarts des actions qui y étaient représentées.
- 4. Malgré toute disposition contraire de la présente loi, la compagnie peut faire l'achat d'actions aux termes du présent article.
- 5. La compagnie qui fait l'achat d'actions aux termes du présent article est tenue, dans les deux ans de l'approbation de cet achat par le lieutenant-gouverneur en conseil, de prendre aux termes de la présente partie les mesures nécessaires aux fins soit d'acquérir les éléments d'actif et d'assumer les obligations et dettes de l'autre compagnie, soit de fusionner avec elle. Toutefois, si le lieutenant-gouverneur en conseil est convaincu de la nécessité de cette mesure, il peut proroger le délai, même à plusieurs reprises.
- 6. Le surintendant peut enjoindre à la compagnie de se départir des actions à l'expiration du délai visé à la disposition 5 ou de sa prorogation.

(2) La contrepartie offerte en retour des actions acquises en vertu du présent article peut se composer de sommes en espèces ou de valeurs mobilières de la compagnie acheteuse ou d'une combinaison des deux ou peut revêtir toute autre forme convenue.

Contrepartie  
en retour des  
actions

(3) Le présent article n'a pas pour effet d'autoriser la compagnie à acheter ou acquérir ses propres actions.

Pas de pou-  
voir d'acheter  
ses propres  
actions

(4) La compagnie qui achète des actions en vertu du présent article dépose auprès du surintendant la demande visée au paragraphe (1).

Demande

(5) Lors du dépôt de la demande d'approbation visée au paragraphe (1), le surintendant :

Avis, rensei-  
gnements

- a) doit exiger que l'auteur de la demande publie dans la *Gazette de l'Ontario* et dans un journal générale-

be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business in Ontario of the continuing corporation is to be located; and

- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

Definition  
"compagnie  
qui fait  
l'acquisition"

**29.—**(1) In this section, "acquiring corporation" means,

- (a) the amalgamated corporation resulting from the amalgamation of one or more corporations; or
- (b) a corporation that purchases the assets of another corporation,

under this Part and for the purposes of subsections (5), (6) and (7) includes a corporation that is a transferee of the business in relation to which a trust corporation that is a party to an agreement of amalgamation or purchase and sale of assets acted as a fiduciary.

Transfer of  
estate, trust  
and agency  
business

(2) Before making the filing with the Superintendent required by subsection 23 (1), where one or more of the corporations that is a party to the amalgamation or purchase of assets is a trust corporation and the acquiring corporation is to be a loan corporation, the parties to the transaction shall make such arrangements as may be necessary to transfer to another trust corporation the business in relation to which the trust corporation acted as a fiduciary but this subsection does not apply so as to require a trust corporation to transfer to another trust corporation money received by it as deposits.

Deposits

(3) Where the acquiring corporation is,

- (a) a trust corporation and one of the parties to the amalgamation or purchase of assets is a loan corporation,
  - (i) deposits received by the loan corporation under clause 155 (1) (a) shall be deemed to be deposits received under clause 155 (2) (a), and

ment lu à l'endroit où est situé le principal établissement de chaque compagnie, l'avis d'achat qui reproduit les renseignements qu'il exige. Dans le cas de fusion, cette publication a également lieu à l'endroit où sera situé en Ontario l'établissement principal de la compagnie issue de la fusion;

- b) peut exiger que les parties à la convention fournissent les renseignements, documents et pièces qu'il estime nécessaires, outre ceux dont la production est exigée en vertu d'une autre disposition de la présente loi.

**29** (1) Pour l'application du présent article, «compagnie qui fait l'acquisition» s'entend de :

Définition  
«acquiring  
corporation»

- a) la compagnie issue de la fusion d'une ou de plusieurs compagnies;
- b) la compagnie qui achète les éléments d'actif d'une autre compagnie,

aux termes de la présente partie. Pour l'application des paragraphes (5), (6) et (7), le terme s'entend en outre de la compagnie qui est cessionnaire des activités que la compagnie de fiducie partie à la convention de fusion ou d'achat et de vente des éléments d'actif exerçait en qualité de fiduciaire.

(2) Avant que ne soit effectué le dépôt, exigé par le paragraphe 23 (1), du document auprès du surintendant, lorsque la compagnie qui fait l'acquisition est une compagnie de prêt et que l'une au moins des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de fiducie, les parties à l'acte prennent les mesures nécessaires pour céder à une autre compagnie de fiducie les activités que la compagnie de fiducie exerce en qualité de fiduciaire, à l'exclusion des sommes d'argent qu'elle a reçues à titre de dépôts.

Transfert des  
activités de  
fiducie

(3) Lorsque la compagnie qui fait l'acquisition est :

Dépôts

- a) une compagnie de fiducie, et que l'une des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de prêt :
  - (i) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) a) sont réputés reçus en vertu de l'alinéa 155 (2) a),

(ii) deposits received by the loan corporation under clause 155 (1) (b) shall be deemed to be deposits received under clause 155 (2) (b); and

(b) a loan corporation and one of the parties to the amalgamation or purchase of assets is a trust corporation,

(i) deposits received by the trust corporation under clause 155 (2) (a) shall be deemed to be deposits received under clause 155 (1) (a), and

(ii) deposits received by the trust corporation under clause 155 (2) (b) shall be deemed to be deposits received under clause 155 (1) (b).

Trust to  
pass

(4) On the approval of the Lieutenant Governor in Council as provided in section 23 to the amalgamation or purchase and sale of assets,

(a) in a case to which subsection (2) applies, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the transferor of the business in relation to which the trust corporation that was a party to the amalgamation or purchase and sale is making the transfer are vested in and bind and may be enforced against the transferee as fully and effectually as if it had been originally named as the fiduciary in the instrument; and

(b) in any other case, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the acquiring corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject-  
matter of  
trust to  
vest in  
acquiring  
corporation

(5) Wherever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the vendor corporation or of any of the amalgamating corporations as fiduciary, the name of the acquiring corporation shall be deemed to be substituted

(ii) les dépôts reçus par la compagnie de prêt en vertu de l'alinéa 155 (1) b) sont réputés reçus en vertu de l'alinéa 155 (2) b);

b) une compagnie de prêt, et que l'une des parties à la fusion ou à l'achat des éléments d'actif est une compagnie de fiducie :

(i) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) a) sont réputés reçus en vertu de l'alinéa 155 (1) a),

(ii) les dépôts reçus par la compagnie de fiducie en vertu de l'alinéa 155 (2) b) sont réputés reçus en vertu de l'alinéa 155 (1) b).

(4) Dès l'approbation par le lieutenant-gouverneur en conseil de la fusion ou de l'achat et de la vente des éléments d'actif, comme le prévoit l'article 23 :

Passation de la fiducie

a) dans le cas prévu au paragraphe (2), sont acquises au cessionnaire les fiducies de toutes espèces, y compris les fiducies non parfaites ou incomplètes, ainsi que les obligations qui incombaient au cédant des activités dont la compagnie de fiducie partie à la fusion ou à l'achat et à la vente effectue le transfert. Les fiducies et obligations sont alors susceptibles d'exécution à l'encontre du cessionnaire dans la même mesure que si celui-ci avait été le fiduciaire original désigné dans l'acte;

b) dans tous les autres cas, les fiducies de toutes espèces, y compris les fiducies non parfaites ou incomplètes sont acquises à la compagnie qui fait l'acquisition, ainsi que les obligations qui incombaient aux parties à l'achat et à la vente. Les fiducies et les obligations sont alors susceptibles d'exécution à l'encontre de la compagnie qui fait l'acquisition dans la même mesure que si elle avait été le fiduciaire original désigné dans l'acte.

(5) Lorsque les termes de l'acte qui constate une succession, une somme d'argent ou un autre bien, intérêt, droit ou avantage possible, stipulent, au moment de la publication, de la rédaction ou de la signature de celui-ci, que les droits précités doivent par la suite être acquis à la compagnie venderesse ou l'une des compagnies qui fusionnent, ou que celle-ci doit en assurer la gestion ou les prendre en charge en tant que fiduciaire, la dénomination sociale de la compagnie qui fait l'ac-

Objet de la fiducie acquis à la compagnie qui fait l'acquisition



for the name of the vendor or amalgamating corporation, and such instrument vests the subject-matter therein described in the acquiring corporation according to the tenor of, and at the time indicated or intended by the instrument, and the acquiring corporation shall be deemed to stand in the place and stead of the vendor or amalgamating corporation.

References  
in will or  
codicil

(6) Where the name of the vendor corporation or of any of the amalgamating corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the acquiring corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the vendor or amalgamating corporation.

Duties  
not  
completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or litigation guardian issued or made by any court in Ontario to the vendor corporation or to any of the amalgamating corporations, from which at the date of the approval of the Lieutenant Governor in Council it had not been finally discharged, the acquiring corporations shall *ipso facto* be substituted therefor.

## PART IV

### REGISTRATION

Registration

**30.**—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to be registered and may be acceptable for registration, and of granting registration accordingly, is upon the Superintendent.

Registers  
continued

(2) The registers known as the “Loan Companies’ Register” and the “Trust Companies’ Register” are hereby continued as the “Loan Corporations’ Register” (“*Registre des compagnies de prêt*”) and “Trust Corporations’ Register” (“*Registre des compagnies de fiducie*”), respectively.

Superin-  
tendent  
to keep  
registers

(3) The Superintendent shall keep the registers and shall cause to be recorded,

- (a) in the Loan Corporations’ Register, the name of each loan corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed; and

quisition est réputée substituée à celle de la compagnie vende-  
resse ou de la compagnie qui fusionne. Au moment précisé ou  
projeté selon les termes de l'acte, l'objet qui y est indiqué est  
acquis à la compagnie qui fait l'acquisition et celle-ci est répu-  
tée remplacer la compagnie vende-  
resse ou la compagnie qui  
fusionne.

(6) Le testament ou codicille dans lequel la compagnie ven-  
deresse ou l'une des compagnies qui fusionnent figure à titre  
d'exécuteur testamentaire, de fiduciaire, de tuteur ou de cura-  
teur, doit se lire, s'interpréter et s'exécuter comme si la com-  
pagnie qui fait l'acquisition y était elle-même désignée. Cette  
dernière jouit à cet égard de la même qualité et des mêmes  
droits que la compagnie vende-  
resse ou la compagnie qui  
fusionne.

Mentions au  
testament ou  
codicille

(7) La compagnie qui fait l'acquisition est substituée, à la  
date de l'approbation du lieutenant-gouverneur en conseil, à  
la compagnie vende-  
resse ou à la compagnie qui fusionne, en  
ce qui concerne toutes lettres d'homologation, lettres d'admini-  
stration, tutelles, curatelles ou désignations d'administra-  
teurs ou de tuteurs à l'instance qui émanent d'un tribunal de  
l'Ontario en faveur de celles-ci et dont elles n'étaient pas  
libérées définitivement à cette date.

Obligations à  
remplir

## PARTIE IV

### INSCRIPTION

**30** (1) Il incombe au surintendant de déterminer, de dif-  
férencier et, si elles s'avèrent acceptables à cette fin, d'inscrire  
les compagnies dont la présente loi requiert l'inscription.

Inscription

(2) Les registres connus sous les appellations de «Loan  
Companies' Register» et «Trust Companies' Register» sont  
prorogés sous les appellations de «Registre des compagnies de  
prêt» («*Loan Corporations' Register*») et «Registre des com-  
pagnies de fiducie» («*Trust Corporations' Register*»), respecti-  
vement.

Prorogation  
des registres

(3) Le surintendant a la garde des registres et veille à  
l'inscription :

Le surinten-  
dant a la  
garde des  
registres

- a) dans le Registre des compagnies de prêt, de la  
dénomination sociale de chacune de ces compagnies  
qui a obtenu son inscription, ainsi que des condi-  
tions et restrictions fixées par le surintendant et des  
autres mentions prescrites;

- (b) in the Trust Corporations' Register, the name of each trust corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed.

Idem

(4) A corporation may be registered in either the Loan Corporations' Register or the Trust Corporations' Register.

Idem

(5) The Superintendent shall note in the appropriate register,

- (a) all terms, conditions and restrictions imposed on the registration of a corporation;
- (b) the fact that the registration of a corporation has been revoked;
- (c) the fact that a registered loan corporation has been continued as a registered trust corporation or *vice versa*.

Application  
for  
registration

**31.—**(1) A corporation duly constituted or incorporated under the laws of Ontario or of Canada or of another province or territory of Canada may apply for initial registration as a loan corporation or as a trust corporation.

Change

(2) A registered loan corporation may apply to change its registration to that of a trust corporation and a registered trust corporation may apply to change its registration to that of a loan corporation.

Idem

(3) A registered corporation may apply to amend the terms, conditions and restrictions of its registration.

Definition  
"demande  
d'inscription"

(4) In this section and sections 32 to 34, "application for registration" means an application under subsection (1) for initial registration, an application under subsection (2) for a change in registration or an application under subsection (3) to change terms, conditions and restrictions imposed on a registration.

Material to  
be furnished

(5) An application for registration shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify.

- b) dans le Registre des compagnies de fiducie, de la dénomination sociale de chacune de ces compagnies qui a obtenu son inscription, ainsi que des conditions et restrictions fixées par le surintendant et des autres mentions prescrites.

(4) Une compagnie peut être inscrite soit au Registre des compagnies de prêt, soit à celui des compagnies de fiducie. Idem

(5) Le surintendant porte au registre approprié les mentions suivantes : Idem

- a) les conditions et restrictions rattachées à l'inscription d'une compagnie;
- b) la révocation de l'inscription d'une compagnie;
- c) le fait que la compagnie de prêt inscrite a été prorogée en compagnie de fiducie inscrite ou vice versa.

**31** (1) Une compagnie dûment constituée en vertu des lois de l'Ontario, du Canada, d'une autre province ou d'un territoire du Canada, peut faire une demande de première inscription en tant que compagnie de prêt ou compagnie de fiducie. Demande d'inscription

(2) La compagnie de prêt inscrite peut demander que son inscription soit changée en celle de compagnie de fiducie et vice versa. Changement

(3) La compagnie inscrite peut déposer une demande en vue d'obtenir une modification des conditions et restrictions rattachées à son inscription. Idem

(4) Pour l'application du présent article et des articles 32 à 34, «demande d'inscription» s'entend de la demande de première inscription aux termes du paragraphe (1), de la demande de changement de l'inscription aux termes du paragraphe (2) et de la demande de modification des conditions et restrictions rattachées à l'inscription aux termes du paragraphe (3). Définition «application for registration»

(5) La demande d'inscription est rédigée selon la formule prescrite, déposée auprès du surintendant et accompagnée des renseignements, documents et pièces mentionnés dans la formule. Documents prescrits



Notice,  
additional  
information

(6) Where the Superintendent receives an application for the registration, the Superintendent may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business of the corporation is located or is to be located.

Additional  
information

(7) Where the Superintendent receives an application for the registration of a corporation, the Superintendent may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

Protection  
of depositors

(8) An application for registration shall be accompanied by evidence that the corporation will from the time of registration be a member of the Canada Deposit Insurance Corporation or that the corporation's deposits will be insured by some other similar public agency approved by the Superintendent up to the maximum amounts permitted by the agency.

Estate, trust  
and agency  
services

(9) An application for registration as a trust corporation shall set out the classes of services in relation to which the corporation proposes to act in a fiduciary capacity.

Registration  
of extra-  
provincial  
corporations

**32.—**(1) Where an extra-provincial corporation applies for registration, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario and an undertaking to the Superintendent signed by the proper corporate officers that the corporation and its subsidiaries will provide such information as the Superintendent may request and will adhere to this Act and to the terms, conditions and restrictions, if any, imposed on its registration.

Execution of  
power of  
attorney

(2) A power of attorney under this section shall be under the seal of the corporation, if required in the jurisdiction of incorporation of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness.

Authenti-  
cation

(3) An undertaking under this section shall be accompanied by a certified copy of the resolution of the board of directors authorizing the corporation's officers to apply for registration under this Act and authorizing the execution of the undertaking.



(6) Sur réception d'une demande d'inscription, le surintendant peut exiger de l'auteur de la demande que ce dernier publie dans la *Gazette de l'Ontario* et dans un journal généralement lu à l'endroit où est ou sera situé l'établissement principal de la compagnie, un avis de la demande qui reproduit les renseignements qu'il exige.

Avis et renseignements supplémentaires

(7) Sur réception d'une demande d'inscription d'une compagnie, le surintendant peut exiger que l'auteur de la demande fournisse, outre ceux qui doivent accompagner la demande ou y figurer, les renseignements, documents et pièces qu'il juge nécessaires.

Renseignements supplémentaires

(8) La demande d'inscription est accompagnée d'une preuve que la compagnie sera, dès le moment de l'inscription, membre de la Société d'assurance-dépôts du Canada ou que ses dépôts seront assurés par un autre organisme public semblable approuvé par le surintendant, jusqu'à concurrence de la somme maximale permise par cet organisme.

Protection des déposants

(9) La demande d'inscription en tant que compagnie de fiducie précise les catégories de services que la compagnie se propose d'offrir en sa qualité de fiduciaire.

Services fiduciaires

**32** (1) La demande d'inscription déposée par une compagnie extraprovinciale est accompagnée d'une procuration donnée à un ou plusieurs mandataires qui ont leur résidence en Ontario, ainsi que d'un engagement qui porte la signature des dirigeants attitrés de la compagnie. L'engagement prévoit que la compagnie et ses filiales fourniront au surintendant les renseignements qu'il peut exiger et se conformeront à la présente loi et aux conditions et restrictions, le cas échéant, rattachées à leur inscription.

Inscription des compagnies extraprovinciales

(2) La procuration visée au présent article porte le sceau de la compagnie, si ce dernier est requis par les lois du territoire de constitution de la compagnie, ainsi que les signatures du président et du secrétaire ou des dirigeants attitrés, apposées en présence d'un témoin.

Signatures apposées à la procuration

(3) L'engagement pris aux termes du présent article est accompagné d'une copie certifiée conforme d'une résolution du conseil d'administration dont les termes autorisent les dirigeants de la compagnie à déposer la demande d'inscription, ainsi qu'à signer l'engagement.

Authentification

Contents of  
power of  
attorney

(4) A power of attorney under this section shall be in the prescribed form and shall be accompanied by the affidavit or statutory declaration of the witness referred to in subsection (2) attesting to the due execution of the power of attorney.

Effect of  
copy as  
evidence

(5) A copy of a power of attorney under this section certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person or persons named therein to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

Changes in  
chief agent  
or agency

(6) When an extra-provincial corporation changes any of its agents in Ontario, it shall forthwith file with the Superintendent a new power of attorney in the prescribed form.

Rejection of  
application

**33.** The Superintendent shall reject an application for registration,

- (a) unless the capital base of the corporation is at least \$5,000,000 in the case of a loan corporation and \$10,000,000 in the case of a trust corporation;
- (b) unless the corporation has satisfied the Superintendent that it has the capacity and power to engage in the activities of a loan corporation or a trust corporation, as the case may be;
- (c) if the applicant is not a corporation described in subsection 31 (1);
- (d) unless it is shown to the satisfaction of the Superintendent that,
  - (i) there exists a public benefit and advantage for the registration of an additional corporation of the kind for which registration is sought,
  - (ii) the management is fit, both as to character and as to competence, to manage a corporation of the kind for which registration is sought,
  - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the applicant immediately after the registration can demonstrate the adequacy of their financial resources and is fit as to character to own 10 per cent or more of such class of shares,

(4) La procuration aux termes du présent article est rédigée selon la formule prescrite et est accompagné de l'affidavit ou de la déclaration solennelle du témoin visé au paragraphe (2), qui atteste la signature en bonne et due forme de la procuration.

Teneur de la  
procuration

(5) La copie de la procuration visée au présent article, certifiée conforme par le surintendant, fait foi des pouvoirs et du mandat attribués dans la procuration aux personnes qui y sont nommées pour agir au nom de la compagnie, de la manière et pour les fins énoncées dans la copie certifiée conforme.

La copie fait  
foi

(6) La compagnie extraprovinciale qui change l'un de ses mandataires en Ontario dépose sans délai auprès du surintendant une nouvelle procuration rédigée selon la formule prescrite.

Changement  
de mandataire

### **33** Le surintendant rejette la demande d'inscription :

Rejet de la  
demande

- a) à moins que l'apport en capital de la compagnie ne soit d'au moins 5 000 000 \$ dans le cas de la compagnie de prêt, et d'au moins 10 000 000 \$ dans le cas de la compagnie de fiducie;
- b) à moins que la compagnie n'ait convaincu le surintendant qu'elle est dotée de la capacité et des pouvoirs nécessaires à l'exercice des activités d'une compagnie de prêt ou d'une compagnie de fiducie, selon le cas;
- c) à moins que l'auteur de la demande ne soit une compagnie visée au paragraphe 31 (1);
- d) à moins que le surintendant ne soit convaincu de ce qui suit :
  - (i) qu'il est avantageux pour le public de procéder à l'inscription d'une nouvelle compagnie du genre de celle dont on sollicite l'inscription,
  - (ii) que les membres de la direction de la compagnie sont aptes, du point de vue de la moralité et de la compétence, à gérer une compagnie du genre de celle dont on sollicite l'inscription,
  - (iii) que chaque personne qui, dès l'inscription, détiendra 10 pour cent ou plus des actions d'une catégorie de l'auteur de la demande, est

- (iv) each director is fit, both as to character and as to competence, to be a director of the corporation of the kind for which registration is being sought,
  - (v) the proposed plan of operations of the corporation is feasible, and
  - (vi) the applicant intends to offer, to the public, initially or within a reasonable time after registration, the services set out in the application for registration and the applicant has the capability to provide such services; or
- (e) if the Superintendent is not satisfied as to the adequacy of any information received with or in support of the application for registration.

Approval  
subject to  
conditions  
and  
restrictions

**34.**—(1) Where the Superintendent is not satisfied as to all of the matters referred to in clause 33 (a), (b) or (d), the Superintendent in lieu of rejecting the application may approve the application for registration of the applicant,

- (a) as a corporation of a kind other than that which the application for registration was made and subject to such terms, conditions and restrictions as the Superintendent may impose; or
- (b) as the kind of corporation for which the application for registration was made but subject to such terms, conditions and restrictions as the Superintendent may impose.

Hearing

(2) Before rejecting an application or before granting an application subject to terms, conditions and restrictions, the Superintendent shall give the corporation an opportunity to be heard before him or her.

Voluntary  
terms and  
conditions

**35.** With the consent of the registered corporation, the Superintendent may impose terms, conditions and restrictions on the registration of a corporation or terms, conditions and restrictions in addition to those previously imposed on the registration of the corporation and subsection 34 (2) does not apply to such terms, conditions and restrictions.

Cancellation  
of  
registration  
on request of  
corporation

**36.** At the request of a registered corporation, the Superintendent may revoke its registration subject to such terms, conditions and restrictions as the Superintendent may impose.

en mesure d'établir sa solvabilité et est apte, du point de vue de la moralité, à posséder 10 pour cent ou plus des actions de cette catégorie,

- (iv) que chacun des administrateurs est apte, du point de vue de la moralité et de la compétence, à remplir cette fonction auprès d'une compagnie du genre de celle dont on sollicite l'inscription,
  - (v) que le programme d'exploitation projeté est réalisable,
  - (vi) que l'auteur de la demande se propose d'offrir au public dès son inscription ou dans un délai raisonnable par la suite, les services énoncés dans la demande d'inscription et que celui-ci est effectivement en mesure de les fournir;
- e) s'il n'est pas convaincu que les renseignements reçus avec la demande d'inscription ou à l'appui de celle-ci sont adéquats.

**34** (1) S'il conserve des doutes en ce qui concerne l'observation des normes visées aux alinéas 33 a), b) ou d), le surintendant peut, au lieu de rejeter la demande, approuver l'inscription de son auteur :

Approbation assujettie à des conditions et restrictions

- a) en tant que compagnie d'un genre différent de celui sollicité par la demande d'inscription, sous réserve des conditions et restrictions qu'il peut fixer;
- b) en tant que compagnie du genre sollicité, mais sous réserve des conditions et restrictions qu'il peut fixer.

(2) Avant de rejeter une demande, ou de l'accueillir sous réserve de conditions et de restrictions, le surintendant donne à la compagnie l'occasion de se faire entendre.

Audience

**35** Le surintendant, avec le consentement de la compagnie inscrite, peut assortir l'inscription d'une compagnie de conditions et de restrictions ou en ajouter à celles déjà existantes et, dans ce cas, le paragraphe 34 (2) ne s'y applique pas.

Conditions volontaires

**36** Le surintendant, à la demande de la compagnie inscrite, peut révoquer l'inscription de celle-ci sous réserve des conditions et restrictions qu'il fixe.

Radiation de l'inscription à la demande de la compagnie



Names

**37.**—(1) Subject to subsection (2), no corporation shall be registered that has a name,

(a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;

(b) that is the same or similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive;  
or

(c) that in the case of a trust corporation does not include,

(i) “trust” or “fiducie” together with a designation such as “corporation”, “company”, “compagnie”, “limited”, “limitée” or “société”, or

(ii) “trustco”.

Idem

(2) Notwithstanding clause (1) (b), a corporation may be registered with a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

**37** (1) Sous réserve du paragraphe (2), ne doit pas être inscrite la compagnie dont la dénomination sociale :

Déno-  
minations  
sociales

- a) reproduit un mot ou une expression prohibés par la présente loi ou les règlements, ne les reproduit pas alors qu'ils sont requis ou qui pour un autre motif n'est pas conforme à la présente loi ou aux règlements;
- b) est identique ou semblable :

(i) à la dénomination sociale ou au nom :

- (A) d'une personne morale,
- (B) d'une fiducie,
- (C) d'une association,
- (D) d'une société en nom collectif,
- (E) d'une entreprise personnelle,
- (F) d'un particulier,

qui est connu, qu'il existe ou non,

(ii) à la dénomination sociale ou au nom connus sous lesquels une personne morale, une fiducie, une association, une société en nom collectif, une entreprise personnelle ou un particulier s'identifie ou exerce ses activités commerciales, si l'emploi de la dénomination sociale ou du nom peut s'avérer trompeur;

- c) dans le cas d'une compagnie de fiducie, ne reproduit pas les mots :

(i) soit «trust» ou «fiducie», ainsi qu'une désignation telle que «corporation», «company», «compagnie», «limited», «limitée» ou «société»,

(ii) soit «trustco».

(2) Malgré l'alinéa (1) b), la compagnie qui porte une dénomination sociale décrite aux sous-alinéas (1) b) (i) ou (ii) peut être inscrite si elle s'est conformée aux conditions prescrites. Idem

Bilingual  
names

(3) Subject to this Act and the regulations, a corporation may be registered that has a name in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated in Ontario by any such name.

Use of  
different  
name  
may be  
required

(4) Where a corporation has a name that contravenes subsection (1), the Superintendent may register the corporation if it undertakes either to change its name to a name that does not contravene subsection (1) or to carry on business in Ontario under a name that does not contravene subsection (1).

Change of  
name

(5) Where, through inadvertence or otherwise, a corporation has obtained registration under a name that contravenes subsection (1), the Superintendent, after giving the corporation an opportunity to be heard, may order as a condition of registration that the corporation carry on business under a name specified in the order.

Deemed  
registration

**38.—**(1) A corporation that, immediately before the coming into force of this section, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, as a loan corporation or a trust company, shall be deemed to be registered under this Act as a loan corporation or a trust corporation, as the case may be.

Conditions,  
change of  
registrations

(2) If the Superintendent is of the opinion that, had a corporation to which subsection (1) applies been required to make an application for initial registration under subsection 31 (1), he or she would not have approved the application except as provided in subsection 34 (1), the Superintendent may by order,

- (a) change the registration of the corporation from that of a loan corporation to that of a trust corporation or *vice versa*;
- (b) impose terms, conditions and restrictions on the registration of the corporation.

Time limit

(3) The Superintendent shall not make an order under subsection (2) unless, within one year of the coming into force of this section, the Superintendent gives the corporation notice of the intention to make the order.

Hearing

(4) Before making an order under subsection (2), the Superintendent shall give the corporation an opportunity to be heard.

(3) Sous réserve de la présente loi et des règlements, peut être inscrite la compagnie qui porte une dénomination sociale anglaise, une dénomination sociale française, une dénomination sociale dans chacune de ces deux langues ou une dénomination sociale qui présente une combinaison des deux langues. La compagnie peut être légalement désignée en Ontario par n'importe laquelle de ses dénominations sociales.

Dénominations sociales bilingues

(4) Le surintendant peut inscrire la compagnie dont la dénomination sociale contrevient au paragraphe (1), si celle-ci s'engage, soit à substituer à sa dénomination sociale une autre qui est conforme à ce paragraphe, soit à exercer ses activités commerciales en Ontario sous une dénomination sociale également conforme à ce paragraphe.

Emploi d'une dénomination sociale différente

(5) Si, par mégarde ou autrement, la compagnie a été inscrite sous une dénomination sociale non conforme au paragraphe (1), le surintendant peut, après lui avoir donné l'occasion de se faire entendre, ordonner que l'inscription de la compagnie soit subordonnée au fait qu'elle exerce ses activités en Ontario sous la dénomination sociale qu'il précise dans l'ordonnance.

Modification d'une dénomination sociale contestable

**38** (1) La compagnie qui était, immédiatement avant l'entrée en vigueur du présent article, inscrite en vertu de la *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980, en tant que compagnie de prêt ou compagnie de fiducie, est réputée inscrite en vertu de la présente loi en tant que compagnie de prêt ou compagnie de fiducie, selon le cas.

Inscription réputée

(2) Lorsque le surintendant est d'avis qu'il n'aurait pas approuvé (sauf de la manière que prévoit le paragraphe 34 (1)) la demande d'une compagnie visée par le paragraphe (1) si celle-ci avait été tenue de présenter une demande de première inscription aux termes du paragraphe 31 (1), le surintendant peut, au moyen d'une ordonnance :

Conditions, changement de l'inscription

- a) changer l'inscription de la compagnie en tant que compagnie de prêt en inscription en tant que compagnie de fiducie, ou vice versa;
- b) assortir l'inscription de la compagnie de conditions et de restrictions.

(3) Le surintendant ne prend pas l'ordonnance visée au paragraphe (2), à moins d'avoir donné à la compagnie, dans l'année qui suit l'entrée en vigueur du présent article, un avis de son intention à cet égard.

Délai

(4) Avant de prendre l'ordonnance visée au paragraphe (2), le surintendant donne à la compagnie l'occasion de se faire entendre

Audience

Registration  
of extra-  
provincial  
corpora-  
tions

**39.**—(1) An extra-provincial corporation shall not be registered if under its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it is incorporated, the corporation and its shareholders, directors, officers, employees and auditors are unable to satisfy the requirements of sections 59 to 68, subsections 89 (2), (3), (4) and (5), sections 90, 96, 98, 100, 101, 103, 106, 107, 108, 109, 110 and 112 and Part IX.

Idem

(2) Upon the registration of an extra-provincial corporation, the provisions of this Act referred to in subsection (1) apply to it and its shareholders, directors, officers, employees and auditors as if the corporation were a provincial corporation.

Idem

(3) It shall be deemed to be a term of registration of every extra-provincial corporation that its registration expires forthwith if its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it was incorporated are amended so that the corporation or the individuals referred to in subsection (1) are unable to satisfy the provisions of this Act referred to in that subsection.

Idem

(4) If the Superintendent is of the opinion that the depositors will be adequately protected, he or she may register or continue the registration of an extra-provincial corporation that would otherwise be ineligible under this section for registration because,

- (a) compliance with the provision of this Act referred to in subsection (1) would be a contravention of the law of its jurisdiction of incorporation; or
- (b) enabling legislation would be required in its jurisdiction of incorporation before a provision of this Act referred to in subsection (1) could be satisfied,

and the provision of this Act does not apply so long as it cannot be satisfied.

## PART V

### SHARES AND SHAREHOLDERS

Deemed  
liability

**40.** For the purposes of sections 47, 48, 50 and 54, depositors in a trust corporation shall be deemed to be a liability of the corporation notwithstanding that the deposit is held by it as trustee.



**39** (1) Une compagnie extraprovinciale ne doit pas être inscrite si, aux termes de son acte constitutif, de son règlement intérieur ou des lois de son territoire de constitution, la compagnie et ses actionnaires, administrateurs, dirigeants, employés et vérificateurs ne sont pas en mesure de se conformer aux exigences des articles 59 à 68, des paragraphes 89 (2), (3), (4) et (5), des articles 90, 96, 98, 100, 101, 103, 106, 107, 108, 109, 110 et 112 et de la partie IX.

Inscription  
des compa-  
gnies extra-  
provinciales

(2) Dès l'inscription de la compagnie extraprovinciale, les dispositions de la présente loi visées au paragraphe (1) s'appliquent à la compagnie et à ses actionnaires, administrateurs, dirigeants, employés et vérificateurs comme s'il s'agissait d'une compagnie provinciale.

Idem

(3) Est réputée constituer une condition d'inscription de la compagnie extraprovinciale celle qui entraîne la caducité de son inscription dès l'avènement d'une modification à son acte constitutif, à son règlement intérieur ou aux lois de son territoire de constitution qui a pour effet d'empêcher la compagnie ou les personnes physiques visées au paragraphe (1) de se conformer aux dispositions de la présente loi qui y sont énoncées.

Idem

(4) Si le surintendant est d'avis que la protection offerte aux déposants sera suffisante, il peut inscrire une compagnie extraprovinciale, ou maintenir son inscription en vigueur, malgré le fait qu'elle ne satisfasse pas par ailleurs aux conditions d'inscription ou de maintien en vigueur de son inscription :

Idem

- a) soit parce que le fait de se conformer à une disposition de la présente loi mentionnée au paragraphe (1) constituerait une contravention aux lois de son territoire de constitution;
- b) soit parce qu'il faudrait qu'une loi d'habilitation soit adoptée dans son territoire de constitution avant qu'une disposition de la présente loi mentionnée au paragraphe (1) ne puisse être observée.

La disposition de la présente loi ne s'applique alors pas à la compagnie tant que la disposition ne puisse être observée.

## PARTIE V

### ACTIONS ET ACTIONNAIRES

**40** Pour l'application des articles 47, 48, 50 et 54, sont réputés éléments du passif de la compagnie les dépôts effectués auprès d'une compagnie de fiducie, malgré le fait que ceux-ci soient détenus par la compagnie en tant que fiduciaire.

Éléments du  
passif réputés

Shares

**41.**—(1) Shares of a provincial corporation shall be in registered form and shall be without nominal or par value.

Idem

(2) Shares with a nominal or par value of a provincial corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value.

Common shares

**42.**—(1) Every provincial corporation shall have one class of shares designated as “common shares” in which the rights of the holders thereof are equal in all respects and shall include,

- (a) the right to vote at all meetings of shareholders;
- (b) the right to receive the remaining property of the corporation upon dissolution; and
- (c) the right to receive dividends of the corporation if declared on such shares.

Other classes of shares

(2) Classes of shares in addition to common shares may be provided for in the instrument of incorporation and the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the instrument of incorporation but such shares shall not be designated as “common shares” or by any variation of that term.

Issuance of shares

(3) Subject to this Act and the instrument of incorporation, shares may be issued at such time and to such persons and for such consideration as the directors may determine.

Shares non-assessable

(4) Shares issued by a provincial corporation are non-assessable and the holders are not liable to the provincial corporation or to its creditors in respect thereof.

Fully paid shares

(5) On and after the day this section comes into force, a share in a provincial corporation shall not be issued until the consideration for the share is fully paid in Canadian dollars and received by the corporation.

Separate capital account

**43.**—(1) A provincial corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A provincial corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration.

**41** (1) Les actions d'une compagnie provinciale sont nominales sans valeur au pair ni nominale. Actions

(2) Les actions d'une compagnie provinciale constituée avant l'entrée en vigueur du présent article sont réputées sans valeur au pair ni valeur nominale. Idem

**42** (1) La compagnie provinciale possède une catégorie d'actions désignée sous l'appellation d'«actions ordinaires», dont les détenteurs ont des droits égaux, notamment ceux : Actions ordinaires

- a) de voter aux assemblées des actionnaires;
- b) de partager entre eux le reliquat des biens de la compagnie lors de la dissolution;
- c) de recevoir les dividendes déclarés sur ces actions, le cas échéant.

(2) L'acte constitutif peut prévoir d'autres catégories d'actions et dans ce cas les droits, privilèges, conditions et restrictions qui se rattachent aux actions de chaque catégorie y sont énoncés. Ces actions ne doivent toutefois pas être désignées sous l'appellation d'«actions ordinaires» ou d'une variante de celle-ci. Autres catégories d'actions

(3) Sous réserve de la présente loi et de l'acte constitutif, la compagnie peut émettre des actions dont les administrateurs déterminent la date d'émission, ainsi que les personnes qui peuvent souscrire et l'apport qu'elles doivent fournir. Émission d'actions

(4) L'émission d'une action est libératoire quant à l'apport exigible de son détenteur. Actions libérées

(5) Dès le jour de l'entrée en vigueur du présent article, les actions ne doivent pas être émises avant d'avoir été entièrement libérées en monnaie canadienne que la compagnie a effectivement reçue. Actions entièrement libérées

**43** (1) La compagnie provinciale tient un compte capital déclaré distinct pour chacune des catégories et séries d'actions émises. Compte capital distinct

(2) La compagnie provinciale porte au crédit du compte pertinent le montant total de l'apport reçu en contrepartie des actions émises. Idem

Limitation on  
additions to  
stated capital  
account

(3) On the issue of a share, a provincial corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

Transition

(4) Notwithstanding subsection (2), on the day this Act comes into force, the amount in the stated capital account maintained by a provincial corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and a provincial corporation may, upon complying with subsection (5), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

Special  
resolution  
additions to  
stated capital  
account

(5) Where a provincial corporation proposes to add any amount, other than an amount to be added under subsection 54 (2), to a stated capital account that it maintains in respect of a class or series of shares, the addition to the stated capital account must be approved by special resolution if,

- (a) the amount to be added,
  - (i) was not received by the provincial corporation as consideration for the issue of shares, or
  - (ii) was received by the provincial corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and
- (b) the provincial corporation has outstanding shares of more than one class or series.

Idem

(6) Where a class or series of shares of a provincial corporation would be affected by the addition of an amount to any stated capital account in a situation where a special resolution is required under subsection (5) in a manner different from the manner in which any other class or series of shares of the provincial corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Special  
shares  
in series

**44.—(1)** Subject to its instrument of incorporation, the directors of a provincial corporation may authorize the issue of any class of shares other than common shares in one or more series and they may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.



(3) Lorsqu'elle émet une action, la compagnie provinciale ne doit pas porter au crédit de son compte capital déclaré relativement à cette action un montant supérieur à celui visé au paragraphe (2).

Limites aux imputations au compte capital déclaré

(4) Malgré le paragraphe (2), le jour de l'entrée en vigueur de la présente loi, le compte capital déclaré relatif à chaque catégorie ou série d'actions alors émises de la compagnie provinciale est égal au montant total reçu pour les actions libérées de chacune d'elles immédiatement avant cette date. La compagnie provinciale peut, après s'être conformée au paragraphe (5), porter au crédit du compte capital déclaré relatif à une catégorie ou série d'actions les sommes auparavant portées au crédit d'un compte de bénéfices non répartis ou d'un autre compte de surplus.

Disposition transitoire

(5) L'imputation d'une somme au compte capital déclaré relatif aux actions d'une catégorie ou d'une série, autrement qu'en vertu du paragraphe 54 (2), doit être approuvé par résolution spéciale si :

Résolution spéciale, imputation au compte capital déclaré

a) d'une part, la somme à porter au crédit :

- (i) n'a pas été reçue par la compagnie provinciale en contrepartie de l'émission d'actions,
- (ii) a été reçue par la compagnie provinciale en contrepartie de l'émission d'actions, mais ne fait pas partie du capital déclaré relatif à ces actions;

b) d'autre part, la compagnie provinciale compte des actions en circulation de plusieurs catégories ou séries.

(6) Dans le cas où l'imputation d'une somme à un compte capital déclaré d'une compagnie provinciale aurait une incidence particulière sur une catégorie ou une série distincte d'actions lorsqu'une résolution spéciale est exigée aux termes du paragraphe (5), leurs détenteurs ont le droit de voter séparément sur la proposition en tant que détenteurs de ces actions, que celles-ci comportent ou non le droit de vote.

Idem

**44** (1) Sous réserve de son acte constitutif, les administrateurs de la compagnie provinciale peuvent autoriser l'émission d'une catégorie d'actions autres que les actions ordinaires en une ou plusieurs séries, fixer le nombre d'actions et la désignation de chaque série et déterminer les droits, privilèges, restrictions et conditions rattachés aux actions de chaque série.

Émission d'actions spéciales en série



Proportionate  
abatement

(2) If any amount,

- (a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or
- (b) payable on return of capital in the event of the liquidation, dissolution or winding up of a provincial corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

- (c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or
- (d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority  
of shares of  
same class

(3) No rights, privileges, restrictions or conditions attached to a series of shares whose issue is authorized under this section shall confer upon the shares of a series a priority in respect of,

- (a) dividends; or
- (b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class.

Conversion  
privileges

**45.**—(1) A provincial corporation may issue warrants as evidence of conversion privileges or options or rights to acquire its securities and it shall set out the conditions thereof,

- (a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or
- (b) in separate certificates or other documents.

Idem

(2) Conversion privileges and options or rights to purchase securities of a provincial corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached.

(2) Lorsque :

Diminution  
proportion-  
nelle

- a) soit un dividende cumulatif, déclaré ou non, ou un dividende déclaré non cumulatif;
- b) soit un remboursement du capital lors de la liquidation ou de la dissolution de la compagnie provinciale,

relativement aux actions d'une série, n'est pas versé en entier, les actions de cette série participent au prorata avec les autres actions de toutes les autres séries de la même catégorie en ce qui concerne, selon le cas :

- c) les dividendes accumulés, déclarés ou non, ainsi que les dividendes déclarés non cumulatifs;
- d) le remboursement du capital lors de la liquidation ou de la dissolution de la compagnie.

(3) Les droits, privilèges, restrictions et conditions rattachés aux actions d'une série dont l'émission est autorisée en vertu du présent article ne doivent pas leur conférer de traitement préférentiel au préjudice des actions d'une autre série de la même catégorie en ce qui a trait :

Aucun traite-  
ment préfé-  
rentiel dans  
une même  
catégorie  
d'actions

- a) aux dividendes;
- b) au remboursement du capital lors de la liquidation ou de la dissolution.

**45** (1) La compagnie provinciale peut délivrer des bons de souscription attestant des privilèges de conversion, des options ou des droits d'acquérir ses valeurs mobilières, aux conditions qu'elle énonce :

Privilèges de  
conversion

- a) soit dans des certificats attestant les valeurs mobilières auxquelles ces privilèges de conversion, options ou droits se rattachent;
- b) soit dans des certificats distincts ou dans d'autres documents.

(2) Les privilèges de conversion peuvent être négociables ou non négociables. Il en est de même pour les options et les droits d'acquérir des valeurs mobilières de la compagnie, qui peuvent être séparables ou non des valeurs mobilières auxquelles ils se rattachent.

Idem

Corporation  
to maintain  
sufficient  
reserve

(3) Where a provincial corporation has granted privileges to convert any securities, other than shares issued by it, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and, where the instrument of incorporation limits the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights.

Subsidiaries  
not to hold  
shares in  
holding body  
corporate

**46.** Except as provided in sections 47 to 49, a provincial corporation,

- (a) shall not hold shares in itself or in its holding body corporate; and
- (b) shall not permit any of its subsidiaries to hold shares in the corporation or in the holding body corporate of the corporation.

Purchase  
of issued  
shares

**47.—**(1) Subject to subsection (2) and to its by-laws, a provincial corporation may, on notice to the Superintendent, purchase or otherwise acquire shares issued by it to,

- (a) settle or compromise a debt or claim asserted by or against the corporation;
- (b) eliminate fractional shares; or
- (c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

Restriction  
on payment

(2) A provincial corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired; or

(3) La compagnie provinciale qui a accordé des privilèges de conversion d'autres valeurs mobilières en ses propres actions, ou qui a accordé des options ou des droits d'acquérir ses actions, et dont le capital autorisé est limité par son acte constitutif, conserve toujours un nombre suffisant d'actions autorisées pour assurer l'exercice de ces privilèges, options ou droits.

Nécessité  
d'une réserve  
suffisante

**46** Sauf dispositions contraires des articles 47 à 49, la compagnie provinciale ne doit pas :

Une filiale ne  
peut être  
titulaire des  
actions de sa  
personne  
morale mère

- a) détenir ses propres actions ni celles de sa personne morale mère;
- b) permettre à ses filiales de détenir ses actions ni celles de sa personne morale mère.

**47** (1) Sous réserve du paragraphe (2) et de son règlement intérieur, la compagnie provinciale peut, sur avis au surintendant, acheter ou autrement acquérir les actions qu'elle a émises, afin :

Acquisition  
de ses pro-  
pres actions

- a) d'effectuer une transaction relative à une créance ou une demande contre la compagnie ou en sa faveur;
- b) d'éliminer le fractionnement de ses actions;
- c) d'exécuter un contrat incessible aux termes duquel la compagnie a une option ou l'obligation d'acheter les actions d'un ancien ou présent administrateur, dirigeant ou employé de la compagnie.

(2) La compagnie provinciale ne doit faire aucun versement en vue d'acheter ou d'acquérir en vertu du paragraphe (1) les actions qu'elle a émises, s'il existe des motifs raisonnables de croire que :

Restriction au  
rembourse-  
ment

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
  - (i) son passif,
  - (ii) les sommes nécessaires au remboursement, en cas de rachat ou de liquidation, des actions payables par préférence, par rapport aux actions que la compagnie se propose d'acheter ou d'acquérir;

- (c) the effect of the purchase or acquisition would be to cause the corporation to be in contravention of this Act or the regulations.

Redemption  
of shares

**48.**—(1) Subject to subsection (2) and to its by-laws and on notice to the Superintendent, a provincial corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price calculated according to a formula stated in the by-laws.

Restriction  
on  
redemption

(2) A provincial corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed; or
- (c) the effect of the redemption would be to cause the corporation to be in contravention of this Act or the regulations.

Donation of  
share

**49.** A provincial corporation may accept from any shareholder a share of the corporation surrendered to it as a gift.

Reduction of  
stated capital  
account

**50.**—(1) Subject to subsection (4) and its instrument of incorporation, a provincial corporation, by special resolution and with the approval of the Superintendent, may reduce its stated capital for any purpose.

Right to  
vote

(2) Where a class or series of shares of a provincial corporation would be affected by a reduction of stated capital under subsection (1) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote.



- c) la compagnie contreviendrait, du fait de l'achat ou de l'acquisition, à la présente loi ou aux règlements.

**48** (1) Sous réserve du paragraphe (2) et de son règlement intérieur, la compagnie provinciale peut, sur avis au surintendant, acheter ou racheter des actions rachetables qu'elle a émises, à un prix qui ne dépasse pas le prix de rachat calculé selon la formule énoncée au règlement intérieur.

Rachat des actions

(2) La compagnie provinciale ne doit faire aucun versement en vue d'acheter ou de racheter les actions rachetables qu'elle a émises, s'il existe des motifs raisonnables de croire que :

Restrictions au rachat

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
- (i) son passif,
- (ii) les sommes nécessaires au remboursement, en cas de rachat ou de liquidation, des actions payables au prorata ou par préférence, par rapport aux actions que la compagnie se propose d'acheter ou d'acquérir;
- c) la compagnie contreviendrait, du fait du rachat, à la présente loi ou aux règlements.

**49** La compagnie provinciale peut accepter que les actions qu'elle a émises lui soient remises par un actionnaire à titre de donation.

Donation d'actions

**50** (1) Sous réserve du paragraphe (4) et de son acte constitutif, la compagnie provinciale peut, par résolution spéciale et avec l'autorisation du surintendant, réduire son capital déclaré à toutes fins.

Réduction du compte capital déclaré

(2) Dans le cas où une réduction du capital déclaré aux termes du paragraphe (1) aurait une incidence particulière sur une catégorie ou une série distincte d'actions, leurs détenteurs ont le droit de voter séparément sur la proposition en tant que détenteurs de ces actions, que celles-ci comportent ou non le droit de vote.

Droit de vote

Account  
reduced to  
be  
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital affected by the special resolution will be made.

Restriction  
on reduction

(4) A provincial corporation shall not take any action to reduce its stated capital for any purpose (other than the purpose of declaring it to be reduced by an amount that is not represented by realizable assets) if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due;
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities; or
- (c) the effect of the reduction would be to cause the corporation to be in contravention of this Act or the regulations.

Application  
for order  
where  
improper  
reduction

(5) A shareholder, creditor or depositor of a provincial corporation is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Action  
against class

(6) Where it appears that there are numerous shareholders who may be liable under this section, the High Court of Justice may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes a claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined.

Shareholder  
holding  
shares  
in fiduciary  
capacity

(7) No person holding shares in the capacity of a personal representative and registered on the records of the provincial corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the named person is subject to all the liabilities imposed by this section.

Liability  
not affected

(8) This section does not affect any liability that arises under section 106.

(3) La résolution spéciale adoptée aux termes du présent article indique le ou les comptes capital déclaré au débit desquels seront portées les réductions.

Indication des  
comptes  
affectés

(4) La compagnie provinciale ne doit accomplir aucun acte visant à réduire son capital déclaré, autre qu'aux fins de le déclarer réduit d'une somme qui ne représente pas des biens réalisables de l'actif, s'il existe des motifs raisonnables de croire que :

Limite à la  
réduction

- a) elle ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- b) la valeur de réalisation de son actif serait de ce fait inférieure à son passif;
- c) la compagnie contreviendrait, du fait de la réduction, à la présente loi ou aux règlements.

(5) L'actionnaire, le créancier ou le déposant de la compagnie provinciale peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance enjoignant à un actionnaire ou à un autre bénéficiaire de restituer à la compagnie les sommes versées ou les biens remis à l'actionnaire ou à l'autre bénéficiaire à la suite d'une réduction de capital non conforme au présent article.

Requête en  
cas de réduction  
injustifiée

(6) S'il paraît que plusieurs actionnaires peuvent être responsables en vertu du présent article, la Haute Cour peut permettre qu'une action soit intentée contre un ou plusieurs d'entre eux en tant que représentants du groupe. Si le demandeur établit le bien-fondé de sa réclamation, la Haute Cour peut renvoyer l'action devant un arbitre et, à cette fin, joindre comme parties tous les actionnaires reconnus à ce titre. L'arbitre fixe la quote-part que chacun doit contribuer à la somme due au demandeur et peut ordonner que les quote-parts soient versées. La quote-part d'un seul actionnaire ne peut cependant pas dépasser la somme visée au paragraphe (5).

Recours contre un groupe

(7) Aucune personne qui détient des actions en qualité d'ayant droit et qui est inscrite aux registres de la compagnie à la fois comme l'ayant droit d'une personne désignée et comme actionnaire, n'est personnellement responsable en vertu du présent article. La personne désignée conserve cependant cette responsabilité.

Actionnaire en qualité de fiduciaire

(8) Le présent article n'a pas d'incidence sur les obligations qui naissent de l'article 106.

Les obligations demeurent

Reduction of  
stated capital  
account

**51.**—(1) Upon a purchase, redemption or other acquisition by a provincial corporation under section 47, 48 or 55 of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Adjustment  
in stated  
capital  
account

(2) A provincial corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 50 (3).

Idem

(3) Upon a change in issued shares of a provincial corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

- (a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(4) For the purpose of subsection (3), where a provincial corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of  
shares  
purchased

(5) Shares of any class or series or fractional shares issued by a provincial corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the instrument of incorporation limits the number of authorized shares



**51** (1) La compagnie provinciale qui acquiert, notamment par achat ou rachat, en vertu des articles 47, 48 ou 55, des actions ou fractions d'actions qu'elle a émises, débite le compte capital déclaré de la catégorie ou de la série pertinente, du produit obtenu en multipliant le capital déclaré des actions de cette catégorie ou série par le nombre d'actions ou de fractions d'actions ainsi acquises, divisé par le nombre d'actions émises de cette catégorie ou série qui existaient immédiatement avant l'acquisition.

Somme débitée au compte lors de l'acquisition d'actions, etc.

(2) La compagnie provinciale rectifie ses comptes capital déclaré conformément aux résolutions spéciales visées au paragraphe 50 (3).

Rectification des comptes capital déclaré

(3) La compagnie provinciale qui effectue le changement de catégorie ou de série de ses actions, ou leur conversion conformément aux conditions qui s'y rattachent, porte :

Idem

- a) au débit du compte capital déclaré de la catégorie ou de la série initiale, le produit obtenu en multipliant le capital déclaré des actions de cette catégorie ou série par le nombre d'actions qui ont fait l'objet du changement ou de la conversion à une autre catégorie ou série, divisé par le nombre d'actions émises de cette catégorie ou série qui existaient immédiatement avant le changement ou la conversion;
- b) au crédit du compte capital déclaré de la catégorie ou série nouvelle, le produit obtenu aux termes de l'alinéa a) ainsi que tout apport supplémentaire reçu au titre de la conversion ou du changement.

(4) Pour l'application du paragraphe (3), lorsque la compagnie provinciale émet deux catégories ou séries d'actions donnant un droit de conversion réciproque, le montant du capital déclaré attribué à une action de l'une ou l'autre catégorie ou série est égal au montant qui correspond à la somme du capital déclaré des deux catégories ou séries, divisé par le nombre d'actions émises de chacune d'elles qui existaient immédiatement avant la conversion.

Idem

(5) Les actions ou fractions d'actions de toutes les catégories ou séries émises par la compagnie provinciale et acquises par elle, notamment par achat ou rachat, sont annulées. Toutefois, si le nombre d'actions autorisées de la catégorie ou série est limité par l'acte constitutif, celles-ci peuvent redevenir des actions autorisées non émises de la catégorie ou de la série donnée.

Statut des actions acquises



of the class or series, may be restored to the status of authorized but unissued shares of the class or series.

Conversion  
of shares

(6) Where shares of a class or series are changed or converted pursuant to their terms into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted.

Contract with  
corporation  
re  
purchase of  
its shares

**52.**—(1) A contract with a provincial corporation providing for the purchase by it of its own shares is specifically enforceable against it except to the extent that it can not perform the contract without thereby being in breach of section 47 or 48.

Idem

(2) In any action brought on a contract referred to in subsection (1), the provincial corporation has the burden of proving that performance thereof is prevented by section 47 or 48.

Idem

(3) Until the provincial corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of depositors, creditors and holders of subordinated notes but in priority to the other shareholders.

Commission  
on sale

**53.** The directors of a provincial corporation may authorize the corporation to pay a reasonable commission to any person in consideration of the person,

(a) purchasing or agreeing to purchase shares of the corporation from it or from any other person; or

(b) procuring or agreeing to procure purchasers for any such shares.

Declaration  
of  
dividends

**54.**—(1) The directors of a provincial corporation may declare and a provincial corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a provincial corporation may pay a dividend in money or property.

Share  
dividend

(2) If shares of a provincial corporation are issued in payment of a dividend, it shall add to the stated capital account for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money.

(6) Si les actions d'une catégorie ou série font l'objet d'un changement ou d'une conversion conformément aux conditions qui s'y rattachent, en un nombre égal ou différent d'actions de la nouvelle catégorie ou série, ces actions sont assimilées aux actions de leur nouvelle catégorie ou série.

Conversion  
des actions

**52-** (1) La compagnie provinciale peut être tenue d'exécuter intégralement les contrats qu'elle a conclus en vue de l'achat de ses propres actions, dans la mesure où elle ne contrevient pas de ce fait aux articles 47 ou 48.

Contrat d'a-  
chat de ses  
propres  
actions

(2) Dans toute instance relative au contrat mentionné au paragraphe (1), le fardeau de prouver que l'exécution de ce contrat est prohibée par les articles 47 ou 48 revient à la compagnie.

Idem

(3) Jusqu'à l'exécution complète du contrat mentionné au paragraphe (1), le cocontractant conserve le droit d'être payé dès que la compagnie est légalement en mesure de le faire, ou lors d'une liquidation, d'être colloqué à la suite des déposants, des créanciers et des détenteurs de titres subalternes, mais par préférence aux autres actionnaires.

Idem

**53** Les administrateurs d'une compagnie provinciale peuvent autoriser la compagnie à verser une commission raisonnable à la personne :

Commission  
sur la vente  
des actions

- a) qui achète ou convient d'acheter des actions de la compagnie, soit de cette dernière, soit d'une autre personne;
- b) qui fait acheter des actions de celle-ci ou qui s'engage à le faire.

**54** (1) Les administrateurs de la compagnie provinciale peuvent déclarer un dividende. La compagnie peut payer ce dividende par l'émission d'actions entièrement libérées de la compagnie, en options ou en droits d'acquérir ces actions, ou, sous réserve du paragraphe (3), en monnaie ou en biens.

Déclaration  
de dividendes

(2) Si le paiement d'un dividende est effectué par l'émission d'actions, la compagnie provinciale porte au crédit du compte capital déclaré de la catégorie ou série pertinente le montant déclaré du dividende, en monnaie.

Dividende  
sous forme  
d'actions

When  
dividend  
not to be  
declared

(3) The directors shall not declare and a provincial corporation shall not pay a dividend if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the lesser of the book value and the realizable value of the corporation's assets would thereby be less than the aggregate of,
  - (i) its liabilities, and
  - (ii) its stated capital of all classes; or
- (c) the effect of the payment would be to cause the corporation to be in contravention of this Act or the regulations.

Lien on  
shares

**55.**—(1) The by-laws of a provincial corporation may provide that it has a lien on a share registered in the name of a shareholder or the shareholder's personal representative for a debt of that shareholder to the provincial corporation.

Where  
subs. (1)  
does not  
apply

(2) Subsection (1) does not apply to a provincial corporation that has shares listed on, or traded through the facilities of, a stock exchange recognized by the Ontario Securities Commission.

Enforcement  
of lien

(3) A provincial corporation may enforce a lien referred to in subsection (1) in accordance with its by-laws.

Restrictions  
on issue,  
transfer, etc.

**56.** A provincial corporation shall not impose restrictions on the issue, transfer or ownership of shares of any class or series except such restrictions as are authorized by its instrument of incorporation and this Act.

Investment  
securities  
1982, c. 4

**57.** Part VI of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Insider  
liability

**58.** Part X of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Definitions

**59.**—(1) In this section and in sections 60 and 61,

(3) Les administrateurs ne doivent pas déclarer un dividende et la compagnie provinciale ne doit pas le payer s'il existe des motifs raisonnables de croire que :

Cas où la déclaration d'un dividende est prohibée

- a) celle-ci ne peut ou, de ce fait, ne pourrait acquitter son passif à échéance;
- 
- b) la moins élevée de la valeur comptable et la valeur de réalisation de son actif serait de ce fait inférieure au total des deux montants suivants :
  - (i) son passif,
  - (ii) son capital déclaré de toutes catégories;
- c) la compagnie contreviendrait, du fait de payer le dividende, à la présente loi ou aux règlements.

**55** (1) Le règlement intérieur de la compagnie provinciale peut prévoir que l'action inscrite au nom de l'actionnaire ou de son ayant droit est grevée d'un privilège relativement à une dette de l'actionnaire envers la compagnie.

Privilège sur les actions

(2) Le paragraphe (1) ne s'applique pas à la compagnie provinciale dont les actions sont cotées ou négociées à une bourse reconnue par la Commission des valeurs mobilières de l'Ontario.

Non-application du par. (1)

(3) La compagnie provinciale peut, conformément à son règlement intérieur, réaliser le privilège visé au paragraphe (1).

Réalisation du privilège

**56** La compagnie provinciale ne doit pas imposer de restrictions à l'émission, au transfert ou au droit de propriété de ses actions de quelque catégorie ou série, à l'exception des restrictions qu'autorisent son acte constitutif et la présente loi.

Restrictions à l'émission, au transfert, etc.

**57** La partie VI de la *Loi de 1982 sur les compagnies* s'applique, avec les adaptations nécessaires, à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée en vertu de cette loi.

Valeurs de placement  
1982, chap. 4

**58** La partie X de la *Loi de 1982 sur les compagnies* s'applique, avec les adaptations nécessaires, à la compagnie provinciale, comme s'il s'agissait d'une compagnie constituée en vertu de cette loi.

Responsabilité des initiés

**59** (1) Les définitions qui suivent s'appliquent au présent article et aux articles 60 et 61.

Définitions

“personnes  
ayant des  
liens...”

“associates of the non-resident” means, with reference to any particular time,

- (a) the shareholders associated with the non-resident at that time, and
- (b) the persons who would be associated with the non-resident at that time were the persons and the non-resident themselves shareholders;

“non-  
résident”

“non-resident” means,

- (a) an individual who is not a resident Canadian,
- (b) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada,
- (c) a body corporate that is controlled directly or indirectly by non-residents as defined in clause (a) or (b),
- (d) a trust established by a non-resident as defined in clause (a), (b) or (c) or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest,
- (e) a body corporate that is controlled directly or indirectly by a trust mentioned in clause (d),

but does not include a mutual insurance company that writes life insurance, is incorporated in Canada and has its head office in Canada, if at least 75 per cent of its directors are resident Canadians;

“actions  
détenues  
par...”

“shares held by or for the non-resident and associates” means, with reference to any particular time, the aggregate number of voting shares held at that time in the name or right of, or for the use or benefit of, the non-resident and associates of the non-resident at that time.

Associated  
shareholder

(2) For the purposes of this section and sections 60 and 61, a shareholder is associated with another shareholder if,

- (a) one shareholder is a body corporate of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;



«actions détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux» En ce qui concerne un moment donné, la totalité des actions assorties du droit de vote et détenues à ce moment par le non-résident et les personnes ayant à ce moment des liens avec le non-résident, en leurs noms, pour leur compte ou à leur usage ou profit.

«shares held by....»

«non-résident» S'entend :

«non-resident»

- a) du particulier qui n'est pas résident canadien;
- b) de la personne morale constituée, formée ou autrement organisée ailleurs qu'au Canada;
- c) de la personne morale dont des non-résidents, tels que définis aux alinéas a) ou b), ont directement ou indirectement le contrôle;
- d) de la fiducie constituée par un non-résident, tel que défini aux alinéas a), b) ou c), ou de la fiducie dont cette personne est bénéficiaire dans une proportion de plus de 50 pour cent;
- e) de la personne morale dont une fiducie visée à l'alinéa d) a directement ou indirectement le contrôle.

Est toutefois exclue la société d'assurance mutuelle qui fait souscrire de l'assurance-vie, qui a été constituée en personne morale au Canada et dont le siège social se trouve au Canada, si au moins 75 pour cent de ses administrateurs sont des résidents canadiens.

«personnes ayant des liens avec le non-résident» S'entend, en ce qui concerne un moment donné :

«associates of the non-resident»

- a) d'une part, des actionnaires ayant des liens avec le non-résident à ce moment;
- b) d'autre part, des personnes qui auraient des liens avec le non-résident à ce moment si elles et lui étaient eux-mêmes des actionnaires.

(2) Pour l'application du présent article et des articles 60 et 61, deux actionnaires ont des liens entre eux, si, selon le cas :

Actionnaires ayant des liens entre eux

- a) l'un des actionnaires est une personne morale dont l'autre est un dirigeant ou un administrateur;
- b) l'un des actionnaires est une société dont l'autre est l'associé;

- (c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust that relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clause (a), (b), (c), (d) or (e) with the same shareholder.

Shares held jointly

(3) For the purposes of this section and sections 60 and 61, where a voting share of a provincial corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Deemed control

(4) For the purposes of this section and sections 60 and 61, a body corporate shall be deemed to be controlled by another person or body corporate or by two or more bodies corporate if voting securities of the first-mentioned body corporate carrying more than 10 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or body or bodies corporate.

Exception for non-resident ownership of corporation

(5) Where immediately before its registration under this Act more than 50 per cent of the issued and outstanding voting shares of a provincial corporation are held in the name or right of, or for the use or benefit of, a non-resident, sections 60 and 61 do not apply in respect of the corporation until such time as there is no one non-resident in whose name or right or for whose use or benefit are held more than 50 per cent of the issued and outstanding voting shares of the corporation.

Limit on shares held by non-resident

**60.**—(1) The directors of a provincial corporation shall refuse to allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident,

- (a) if, when the total number of voting shares of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by non-residents;

- c) l'un des actionnaires est une personne morale contrôlée par l'autre, directement ou indirectement;
- d) les deux actionnaires sont des personnes morales contrôlées, directement ou indirectement, par la même personne physique ou morale;
- e) les deux actionnaires sont parties à une convention de vote fiduciaire relative aux actions d'une compagnie;
- f) les deux actionnaires ont des liens, au sens des ali-néas a), b), c), d) ou e), avec le même actionnaire.

(3) Pour l'application du présent article et des articles 60 et 61, l'action d'une compagnie provinciale assortie du droit de vote qui est détenue en commun est réputée détenue par un non-résident lorsque l'un ou plusieurs des détenteurs communs sont des non-résidents.

Actions détenues en commun

(4) Pour l'application du présent article et des articles 60 et 61, une personne ou une ou plusieurs personnes morales sont réputées avoir le contrôle d'une autre personne morale si celles-ci détiennent ou sont bénéficiaires, autrement qu'à titre de garantie seulement, des valeurs mobilières de cette autre personne morale qui comportent plus de 10 pour cent des voix qui peuvent être exprimées pour élire les administrateurs.

Contrôle réputé

(5) Si, immédiatement avant l'inscription d'une compagnie provinciale aux termes de la présente loi, plus de 50 pour cent de ses actions émises, en circulation et assorties du droit de vote sont détenues au nom d'un non-résident, pour son compte ou à son usage ou profit, les articles 60 et 61 ne s'appliquent pas à l'égard de la compagnie. Cette exception cesse de s'appliquer lorsqu'il n'est plus détenu, au nom, pour le compte ou à l'usage ou au profit d'un non-résident particulier, plus de 50 pour cent des actions émises, en circulation et assorties du droit de vote de la compagnie.

Exception lorsqu'un non-résident est propriétaire de la compagnie

**60** (1) Les administrateurs d'une compagnie provinciale ne doivent pas permettre l'inscription, au registre de ses valeurs mobilières, du transfert en faveur de non-résidents d'actions assorties du droit de vote, si l'inscription de ce transfert devait avoir pour effet :

Limite au nombre d'actions détenues par des non-résidents

- a) d'augmenter le pourcentage de ces actions détenues par des non-résidents alors que leur nombre représente déjà plus de 25 pour cent du nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;

- (b) if, when the total number of voting shares of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding voting shares, the entry of the transfer would cause the total number of such shares held by non-residents to exceed 25 per cent of the total number of issued and outstanding voting shares;
- (c) if, when the total number of the voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, exceeds 10 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with the non-resident; or
- (d) if, when the total number of voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares held by the non-resident and by other shareholders associated with the non-resident, if any, to exceed 10 per cent of the issued and outstanding voting shares.

Exceptions

(2) Notwithstanding subsection (1), the directors of a provincial corporation may allow the entry of a transfer of a voting share of the corporation to a non-resident when it is shown on evidence satisfactory to them that,

- (a) the share was held in the right of or for the use or benefit of the non-resident immediately before the 17th day of June, 1970; or
- (b) the share was subscribed for by, or allotted or transferred to, the non-resident before the registration of the corporation under this Act but after the coming into force of this Act.

Allotment to  
non-resident

(3) The directors of a provincial corporation shall not allot, or allow the allotment of any voting shares of the corporation to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the securities register would be required to be refused by the directors.

Offence

(4) Default in complying with this section does not affect the validity of a transfer or allotment of voting shares of the provincial corporation that has been entered into the securities register of the corporation, but every director or officer

- b) de porter à plus de 25, alors qu'il est égal ou inférieur à ce chiffre, le pourcentage de ces actions détenues par des non-résidents, par rapport au nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;
- c) d'augmenter le pourcentage de ces actions détenues par un non-résident et les actionnaires qui ont des liens avec lui, le cas échéant, alors que leur nombre représente déjà plus de 10 pour cent du nombre total d'actions de la compagnie assorties du droit de vote, émises et en circulation;
- d) de porter à plus de 10, alors qu'il est égal ou inférieur à ce chiffre, le pourcentage de ces actions détenues par un non-résident et les actionnaires qui ont des liens avec lui, le cas échéant, par rapport au nombre total d'actions émises et en circulation.

(2) Malgré le paragraphe (1), les administrateurs de la compagnie provinciale peuvent autoriser l'inscription du transfert en faveur d'un non-résident d'une action de la compagnie assortie du droit de vote s'ils sont convaincus par des preuves qui leur sont présentées :

Exceptions

- a) soit que l'action était, immédiatement avant le 17 juin 1970, détenue pour le compte du non-résident ou à son usage ou profit;
- b) soit que le non-résident a souscrit à l'action, ou qu'elle lui a été attribuée ou transférée, avant l'inscription de la compagnie aux termes de la présente loi, mais après l'entrée en vigueur de celle-ci.

(3) Les administrateurs de la compagnie provinciale ne doivent pas attribuer ou permettre l'attribution à un non-résident d'actions de la compagnie assorties du droit de vote lorsque, si cette attribution équivalait à un transfert des actions, ceux-ci seraient tenus de refuser l'inscription de ce transfert dans le registre des valeurs mobilières.

Attribution à un non-résident

(4) Le défaut de se conformer au présent article n'a pas d'incidence sur la validité du transfert ou de l'attribution d'actions de la compagnie provinciale assorties du droit de vote qui a été inscrit au registre de ses valeurs mobilières. Toutefois, l'administrateur ou le dirigeant qui sciemment permet la contravention ou l'autorise est coupable d'une infraction.

Infraction



who authorizes or knowingly permits such default is guilty of an offence.

Voting by  
non-residents

**61.**—(1) Non-residents shall not exercise the voting rights attached to shares of a provincial corporation unless entered in the securities register of the corporation as a shareholder in respect of the shares.

Voting rights  
of nominees  
suspended

(2) Where a person who is a resident Canadian or a body corporate that is resident in Canada holds voting shares of a provincial corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the securities register of the corporation as the holder, the person shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Change of  
status while  
entered on  
books

(3) Where a person who is a resident Canadian or a body corporate that is resident in Canada becomes a non-resident while entered in the securities register of a provincial corporation as a shareholder and the number of voting shares of such person recorded in the securities register when added to those entered therein as owned by other non-residents exceed the limit set out in section 60, the person shall not exercise, in person or by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 60.

Voting rights  
of single  
non-resident  
owner

(4) Where any voting shares of a provincial corporation are held in the name of or in the right of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the securities register of the corporation before the 17th day of June, 1970 or is entered in the securities register under subsection 60 (2), no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held in the non-resident's name or in the non-resident's right or for the non-resident's use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

- (a) any shareholders associated with the non-resident;  
or
- (b) any persons who would be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding voting shares.

**61** (1) Le non-résident ne doit pas exercer le droit de vote rattaché aux actions d'une compagnie provinciale, sauf s'il est inscrit au registre des valeurs mobilières de la compagnie à titre de détenteur de ces actions.

Droit de vote  
des non-  
résidents

(2) Le particulier qui est résident canadien et la personne morale qui réside au Canada ne doivent pas exercer, en personne, par procuration ou en vertu d'une convention de vote fiduciaire, le droit de vote rattaché aux actions assorties du droit de vote d'une compagnie provinciale que ceux-ci détiennent pour le compte d'un non-résident, ou à l'usage ou au profit de ce dernier, lorsque ce non-résident n'est pas inscrit à titre de détenteur de ces actions au registre des valeurs mobilières de la compagnie.

Suspension du  
droit de vote  
de l'intermé-  
diaire

(3) Le particulier qui est résident canadien ou la personne morale qui réside au Canada qui deviennent non-résidents lorsqu'ils sont des actionnaires inscrits au registre des valeurs mobilières de la compagnie provinciale, ne doivent pas exercer en personne, par procuration ou en vertu d'une convention de vote fiduciaire le droit de vote rattaché à leurs actions, dans la mesure où le nombre de ces actions, ajouté au montant des actions déjà inscrites au nom de non-résidents, dépasse la limite fixée à l'article 60.

Changement  
de statut en  
cours d'ins-  
cription

(4) Nul ne doit, en personne, par procuration ou en vertu d'une convention de vote fiduciaire, exercer le droit de vote rattaché aux actions d'une compagnie provinciale détenues par un non-résident, en son nom, pour son compte, à son usage ou à son profit, à l'exception des actions qui étaient, soit antérieurement au 17 juin 1970, soit aux termes du paragraphe 60 (2), inscrites à son nom dans le registre des valeurs mobilières. Cette disposition s'applique lorsque le montant des actions ainsi détenues, ajouté aux actions détenues au nom, pour le compte ou à l'usage ou au profit :

Droits de  
vote du  
non-résident  
particulier

- a) des actionnaires qui ont des liens avec le non-résident;
- b) des personnes qui seraient réputées avoir des liens avec lui si celles-ci ainsi que le non-résident étaient eux-mêmes actionnaires,

représente en nombre plus de 10 pour cent des actions assorties du droit de vote, émises et en circulation.

## Exception

(5) Subsection (4) does not apply so as to prevent the exercise of voting rights pertaining to shares of a provincial corporation by a non-resident so long as the percentage of issued and outstanding voting shares held by or for the non-resident and associates does not exceed either the percentage of such shares held by or for the non-resident and associates immediately before the registration of the corporation or the smallest percentage of such shares held by or for the non-resident and associates at any subsequent time.

## Offence

(6) Every person who knowingly contravenes this section is guilty of an offence.

Effect of  
contravention

(7) No proceeding, matter or thing at a general meeting of a provincial corporation is void by reason only of a contravention of this section, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a special resolution.

Deemed  
holding  
body  
corporate

**62.**—(1) For the purposes of sections 63, 64 and 68, a person who, alone or with any related person, owns beneficially, directly or indirectly, 10 per cent or more of the total number of issued and outstanding shares of a class of voting shares of a corporation shall be deemed to be a holding body corporate and the shares and issue or transfer of shares of the holding body corporate shall be deemed to be shares or a transfer or issue of shares to which sections 63, 64 and 68 apply.

Definition  
“personne”

(2) For the purposes of subsection (1), “person” includes a trust.

Consent of  
Superin-  
tendent

**63.**—(1) No transfer or issue of voting shares of a provincial corporation shall be entered in its securities register until the consent of the Superintendent has been received by the corporation, if,

- (a) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders related to the person, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person; or
- (b) when the total number of shares of a class of voting shares of the provincial corporation held by a person and by other shareholders related to the person, if any, is 10 per cent or less of the total number of

(5) Le paragraphe (4) n'a pas pour effet d'empêcher l'exercice de droits de vote relatifs à des actions d'une compagnie provinciale par un non-résident tant que le pourcentage d'actions émises et en circulation assorties du droit de vote et détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux, ne dépasse pas soit le pourcentage de ces actions détenues par le résident et des personnes ayant des liens avec lui, ou pour eux, immédiatement avant l'inscription de la compagnie, soit le pourcentage plus bas de ces actions détenues par le non-résident et des personnes ayant des liens avec lui, ou pour eux, à n'importe quel moment par la suite.

Exception

(6) Toute personne qui sciemment contrevient au présent article est coupable d'une infraction.

Infraction

(7) Les actes, affaires ou objets faits ou accomplis lors de l'assemblée générale de la compagnie provinciale ne sont pas invalides pour le seul motif qu'il y a eu contravention au présent article. Ceux-ci sont toutefois susceptibles d'annulation, au choix des actionnaires, au cours de l'année qui suit le jour du début de l'assemblée générale au cours de laquelle s'est produite la contravention. L'annulation se fait par voie de résolution spéciale.

Effets de la contravention

**62** (1) Pour l'application des articles 63, 64 et 68, est réputée une personne morale mère la personne qui, seule ou de concert avec une autre personne qui lui est liée, est propriétaire à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus du nombre total d'actions émises et en circulation d'une catégorie d'actions d'une compagnie assorties du droit de vote. Les actions ainsi que l'émission et le transfert des actions de la personne morale mère sont alors réputés subordonnés à l'application des articles 63, 64 et 68.

Personne morale mère réputée

(2) Pour l'application du paragraphe (1), le terme «personne» s'entend en outre d'une fiducie.

Définition «person»

**63** (1) Jusqu'à ce que le consentement du surintendant ait été reçu, il ne doit être inscrit au registre des valeurs mobilières de la compagnie provinciale aucun transfert ni émission de ses actions assorties du droit de vote, si ce transfert ou cette émission devait avoir pour effet :

Consentement du surintendant

- a) d'augmenter le pourcentage d'une catégorie donnée de ces actions détenues par cette personne et par les actionnaires qui lui sont liés, le cas échéant, lorsque leur nombre représente déjà plus de 10 pour cent du nombre total d'actions de cette catégorie émises et en circulation;
- b) de porter à plus de 10, lorsqu'il est égal ou inférieur à ce chiffre, le pourcentage des actions de cette



issued and outstanding shares of that class, the transfer or issue would cause the total number of shares of that class held by such person and by other shareholders related to the person, if any, to exceed 10 per cent of the issued and outstanding shares of that class,

and until the consent of the Superintendent is received by the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any of the voting shares that are held by or in the name of the shareholder or by or in the name of any person related to the shareholder.

Exception

(2) The consent of the Superintendent is not required if the number of shares of the class of voting shares to be transferred or issued to a person, when added to the number of other shares of that class transferred or issued to the person and other shareholders related to the person since the later of,

(a) the day this Act came into force; and

(b) the day immediately preceding the day the most recent consent was given under this section with respect to the person or a shareholder related to the person,

is less than 2.5 per cent of the issued and outstanding shares of that class on that day.

Idem

(3) The exception set out in subsection (2) does not apply to a transfer or issue of shares that would result in a change of control in the corporation.

Exception

R.S.O. 1980,  
c. 466

(4) The consent of the Superintendent is not required in respect of a transfer or issue of shares to an underwriter, as defined in section 1 of the *Securities Act*, who receives them in that capacity.

Application  
to  
Superin-  
tendent

(5) A person to whom shares are to be transferred or issued in circumstances that require the consent of the Superintendent may apply for the consent and, for the purposes of the application, the person shall provide the Superintendent with such information as the Superintendent may request.

Refusal of  
consent

(6) On an application under subsection (5), the Superintendent may refuse consent where, in his or her opinion, it would be in the public interest to do so and, without limiting the generality of the foregoing, the Superintendent may refuse consent where the shareholder or any person related to the shareholder,



catégorie détenues par cette personne et les actionnaires qui lui sont liées, le cas échéant, par rapport au nombre total d'actions de cette catégorie, émises et en circulation.

Jusqu'à ce que le consentement ait été reçu, nul ne doit non plus, en personne ou par procuration, exercer le droit de vote rattaché aux actions détenues par l'actionnaire ou la personne qui lui est liée, ou en leurs noms.

(2) Le consentement du surintendant n'est pas requis si le nombre d'actions de la catégorie d'actions assorties du droit de vote à transférer ou à émettre en faveur d'une personne, ajouté au nombre des actions de cette catégorie qui ont été transférées ou émises en faveur de cette personne ou d'autres actionnaires qui lui sont liés, depuis :

Exception

- a) le jour de l'entrée en vigueur de la présente loi;
- b) le jour précédant immédiatement le jour où le consentement le plus récent a été donné aux termes du présent article à l'égard de la personne ou d'un actionnaire qui lui est lié,

selon le plus récent de ces jours, est inférieur à 2,5 pour cent du nombre des actions de cette catégorie qui sont, ce jour-là, émises et en circulation.

(3) L'exception visée au paragraphe (2) ne s'applique ni au transfert ni à l'émission d'actions qui entraîneraient le transfert du contrôle de la compagnie.

Idem

(4) Le consentement du surintendant n'est pas requis à l'égard d'un transfert ou d'une émission d'actions en faveur d'un souscripteur à forfait, au sens de l'article 1 de la *Loi sur les valeurs mobilières*, qui reçoit les actions en cette qualité.

Exception  
L.R.O. 1980,  
chap. 466

(5) La personne en faveur de qui des actions doivent être transférées ou émises dans des circonstances où le consentement du surintendant est requis peut s'adresser à ce dernier en vue d'obtenir ce consentement, et lui fournit à cette fin les renseignements qu'il peut exiger.

Demande  
adressée au  
surintendant

(6) Le surintendant peut refuser de consentir à la demande visée au paragraphe (5) si, à son avis, il en va de l'intérêt public, notamment si l'actionnaire ou la personne qui est liée à lui :

Consentement  
refusé

- (a) is or has been bankrupt;
- (b) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act*;
- (c) is or has been subject to a cease trading order under the *Securities Act*;
- (d) is the subject of an examination under section 186 or an investigation under section 206;
- (e) is contravening any provision of this Act or the regulations or of any comparable legislation of another jurisdiction or of any undertaking given to the Superintendent; or
- (f) has failed to provide the information requested under subsection (5).

Effective  
date of  
consent

(7) The consent of the Superintendent under this section takes effect on the date set out in the consent and the effective date may be a date before the date the consent is given.

Declaration  
may be  
required

**64.** The Superintendent may in writing direct a provincial corporation to obtain from a person in whose name a share is registered in the securities register of the corporation or who is the beneficial owner of a share of the corporation a declaration containing information,

- (a) concerning the ownership or beneficial ownership of such share;
- (b) as to whether such share is owned or beneficially owned by a person who is related to any other person and the name of that other person where applicable;
- (c) concerning the ownership or beneficial ownership of the shares of a holding body corporate; and
- (d) concerning such other matters as are specified by the Superintendent,

and as soon as possible after the receipt of a direction from the Superintendent under this section, the directors of the corporation shall comply therewith and every person who is requested by the corporation to provide a declaration in the prescribed form containing information referred to in this sub-

- a) a ou a déjà eu le statut de failli;
- b) a été reconnu coupable d'une infraction criminelle ou d'une infraction à la présente loi ou à la *Loi sur les valeurs mobilières*; L.R.O. 1980, chap. 466
- c) a fait l'objet d'une ordonnance d'interdiction d'opération aux termes de la *Loi sur les valeurs mobilières*;
- d) fait l'objet d'un examen aux termes de l'article 186 ou d'une enquête aux termes de l'article 206;
- e) contrevient à une disposition de la présente loi, des règlements, d'une loi semblable d'une autre compétence législative, ou d'un engagement pris envers le surintendant;
- f) n'a pas fourni les renseignements exigés aux termes du paragraphe (5).

(7) Le consentement du surintendant aux termes du présent article prend effet à la date précisée dans le document, qui peut être antérieure à la date du consentement. Date de prise d'effet du consentement

**64** Le surintendant peut ordonner par écrit à une compagnie provinciale d'obtenir d'une personne au nom de laquelle une action est inscrite au registre des valeurs mobilières de la compagnie, ou d'une personne qui est propriétaire à titre bénéficiaire d'une action de la compagnie, un relevé qui reproduit des renseignements ayant trait : Relevé exigé

- a) à la propriété ou à la propriété à titre bénéficiaire de l'action;
- b) au fait que la propriété ou la propriété à titre bénéficiaire appartient à une personne liée à une autre personne, et le nom de cette autre personne, le cas échéant;
- c) à la propriété ou à la propriété à titre bénéficiaire des actions d'une personne morale mère;
- d) aux autres points que précise le surintendant.

Les administrateurs se conforment aux instructions du surintendant aux termes du présent article, dès leur réception. Chaque personne à qui la compagnie demande de présenter, selon la formule prescrite, le relevé des renseignements visés à

section shall forthwith comply with the request by submitting the completed declaration to the Superintendent.

Hearing

**65.**—(1) Where the Superintendent proposes to refuse consent under section 63, he or she shall forthwith advise the applicant and shall give the applicant an opportunity to be heard before him or her.

Power of  
L.G. in C.

(2) Upon the petition of the applicant, filed with the Clerk of the Executive Council within twenty-eight days after the date of the decision of the Superintendent to refuse consent under section 63, the Lieutenant Governor in Council may,

- (a) confirm, vary or rescind the whole or any part of such decision; or
- (b) require the Superintendent to hold a new hearing of the whole or any part of the application to the Superintendent upon which such decision of the Superintendent was made.

Idem

(3) The decision of the Superintendent after the hearing under clause (2) (b) is not subject to petition under this section.

Decision  
final

(4) Except as provided in subsection (2), a decision of the Superintendent to refuse consent under section 63 is final and binding and no such decision or decision as confirmed or varied under subsection (2) shall be stayed, varied or set aside by any court.

Exemption

**66.** The Superintendent, with the approval of the Lieutenant Governor in Council, may by order exempt any corporation or other person from the application of sections 63 to 65, in whole or in part, on such terms and conditions as are set out in the order and where any such order is filed with the corporation named in the order, it shall be deemed to be a consent of the Superintendent for the purpose of section 63, so long as the terms and conditions of the order have been complied with.

Transfer  
valid only  
after entry

**67.**—(1) No transfer of shares of a provincial corporation, unless made by a sale under execution or under the order or judgment of a court of competent jurisdiction, is valid for any purpose until the transfer has been entered in the securities register of the corporation.

Exceptions

(2) Notwithstanding subsection (1), a transfer of shares that has not been entered in the securities register of a provincial

ce paragraphe, se conforme sans délai à la demande et dépose ce relevé auprès du surintendant.

**65** (1) Si le surintendant a l'intention de refuser son consentement aux termes de l'article 63, il en notifie sans délai l'auteur de la demande et lui fournit l'occasion de se faire entendre. Audience

(2) Sur pétition de l'auteur de la demande déposée auprès du greffier du Conseil des ministres dans les vingt-huit jours de la décision du surintendant de refuser son consentement aux termes de l'article 63, le lieutenant-gouverneur en conseil peut :

- a) confirmer, modifier ou annuler la décision, en totalité ou en partie;
- b) enjoindre au surintendant de tenir une nouvelle audience concernant la totalité ou une partie de la demande visée par la décision du surintendant.

(3) La décision du surintendant rendue après l'audience tenue aux termes de l'alinéa (2) b) ne peut faire l'objet d'une pétition aux termes du présent article. Idem

(4) Sous réserve du paragraphe (2), la décision du surintendant de refuser son consentement aux termes de l'article 63 est définitive et lie les parties. Elle ne peut non plus, dans sa forme originale ou confirmée ou modifiée en vertu du paragraphe (2), faire l'objet d'un sursis, de modifications ou d'annulation de la part d'aucun tribunal. Décision définitive

**66** Le surintendant, avec l'approbation du lieutenant-gouverneur en conseil, peut prendre une ordonnance en vue de soustraire en tout ou en partie la compagnie ou une autre personne à l'application des articles 63 à 65, selon les conditions qui y sont précisées. Cette ordonnance, déposée auprès de la compagnie qui y est nommée, est réputée, tant que les conditions qui s'y rattachent ont été respectées, constituer le consentement du surintendant pour l'application de l'article 63. Dispense

**67** (1) Le transfert d'actions d'une compagnie provinciale, sauf le transfert effectué lors de la saisie-exécution ou de la vente en justice ordonnée par le tribunal compétent, ne vaut que s'il est inscrit au registre des valeurs mobilières de la compagnie. Inscription nécessaire à la validité

(2) Malgré le paragraphe (1), le transfert d'actions dont l'inscription ne figure pas aux registres des valeurs mobilières de la compagnie provinciale vaut entre les parties au transfert. Exceptions



corporation is valid for the purpose of showing the rights as between the parties to the transfer.

By-laws

**68.**—(1) The directors of a provincial corporation may make by-laws,

- (a) requiring any person holding any voting share of the corporation to submit written declarations,
  - (i) with respect to the ownership of a share of the corporation or of the holding body corporate,
  - (ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
  - (iii) as to whether the shareholder is associated with or related to any other shareholder, and
  - (iv) with respect to such other matters as the directors consider relevant for the purposes of sections 60 to 67;
- (b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted; and
- (c) requiring any person desiring to have a transfer of a share to the person entered in the securities register of the corporation to submit such a declaration as may be required under this section in the case of a shareholder.

Where  
declaration  
pending

(2) Where under any by-law made under subsection (1), any declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may prohibit the entry of the transfer in the securities register of the corporation until the required declaration has been submitted.

Liability of  
directors, etc.

**69.** In determining, for the purposes of whether a person is a resident Canadian, body corporate resident in Canada or a non-resident, by whom a body corporate is controlled or any other circumstances relevant to the performance of their duties under sections 60 to 67, the directors of the provincial corporation and any other person acting as proxy for a shareholder of the provincial corporation may rely upon any statement made in any declarations made pursuant to a by-law made under subsection 68 (1) or rely upon their own knowledge of the circumstances, and the directors and any such person are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge.

**68** (1) Les administrateurs de la compagnie provinciale peuvent, par règlement intérieur :

Règlement  
intérieur

- a) exiger de la personne qui détient quelque action de la compagnie assortie du droit de vote de déposer par écrit des relevés concernant :
  - (i) la propriété d'une action de la compagnie ou de sa personne morale mère,
  - (ii) l'endroit où résident ordinairement l'actionnaire et la personne, le cas échéant, à l'usage ou au profit de laquelle l'action est détenue,
  - (iii) l'existence de liens entre deux actionnaires ou le fait que ceux-ci soient liés,
  - (iv) les autres points que les administrateurs jugent pertinents pour l'application des articles 60 à 67;
- b) prescrire les moments et le mode de présentation des relevés visés à l'alinéa a);
- c) exiger de la personne qui désire que le transfert d'une action en sa faveur soit inscrite au registre des valeurs mobilières de la compagnie que celle-ci présente le relevé qui peut être exigé de l'actionnaire en vertu du présent article.

(2) Les administrateurs peuvent interdire l'inscription du transfert au registre des valeurs mobilières de la compagnie jusqu'à ce qu'ait été présenté le relevé exigé de l'actionnaire ou d'une autre personne relativement au transfert d'une action aux termes du règlement intérieur pris en application du paragraphe (1).

Relevé à  
recevoir

**69** Afin de déterminer le statut de résident canadien ou de non-résident d'une personne physique ou morale qui contrôle une personne morale ou d'autres faits relatifs à l'exécution de leurs obligations aux termes des articles 60 à 67, les administrateurs de la compagnie provinciale et le fondé de pouvoir de son actionnaire peuvent se fier aux relevés dressés conformément au règlement intérieur pris en application du paragraphe 68 (1), ou à leur connaissance personnelle des faits. Les administrateurs et les fondés de pouvoir ne peuvent, lors d'une poursuite, être tenus responsables des actes qu'ils ont accomplis ou omis de faire de bonne foi en appliquant les con-

Responsabilité  
des adminis-  
trateurs, etc.

Shareholders  
liability  
limited

**70.** Except as otherwise provided in this Act, the shareholders of a provincial corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation.

Place of  
meetings

**71.** Subject to the by-laws, a meeting of shareholders of a provincial corporation shall be held at such place in Canada as the directors determine or, in the absence of such a determination, at its principal place of business.

Shareholders  
meeting

**72.** The directors of a provincial corporation,

- (a) shall call an annual meeting of shareholders not later than three months after the corporation comes into existence and subsequently not later than three months after each fiscal year end of the corporation; and
- (b) may call a special meeting of shareholders at any time.

Record date

**73.—(1)** For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

Idem

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held.

Where no  
date fixed

(3) Where no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
  - (i) at the close of business on the day immediately preceding the day on which the notice is given, or

clusions tirées de ces relevés ou fondées sur cette connaissance.

**70** Sauf disposition contraire de la présente loi, les actionnaires de la compagnie provinciale ne sont pas, à ce titre, responsables de ses obligations, actes ou omissions.

Responsabilité  
limitée des  
actionnaires

**71** Sous réserve du règlement intérieur, les assemblées des actionnaires d'une compagnie provinciale se tiennent à l'endroit au Canada que fixent les administrateurs, ou à défaut, à l'endroit où est situé l'établissement principal.

Lieu des  
assemblées

**72** Les administrateurs de la compagnie provinciale :

Assemblée  
des action-  
naires

- a) convoquent une assemblée annuelle des actionnaires au plus tard dans les trois mois de la création de la compagnie, et, par la suite, au plus tard trois mois après la fin de chaque exercice de la compagnie;
- b) peuvent convoquer des assemblées extraordinaires des actionnaires.

**73** (1) Les administrateurs peuvent fixer d'avance une date de clôture des registres qui tombe dans les cinquante jours précédant l'opération en cause, pour déterminer les actionnaires habiles :

Date de  
clôture des  
registres

- a) à recevoir les dividendes;
- b) à participer à la liquidation ou à la distribution;
- c) à toute autre fin, sauf en matière du droit de recevoir avis d'une assemblée ou d'y voter.

(2) Les administrateurs peuvent fixer d'avance une date de clôture des registres qui tombe entre le cinquantième et le vingt et unième jour précédant une assemblée des actionnaires, pour déterminer les actionnaires habiles à recevoir avis de cette assemblée.

Idem

(3) Si la date n'a pas été fixée, constitue la date de clôture des registres pour déterminer les actionnaires :

Date non  
fixée

- a) qui ont le droit de recevoir avis d'une assemblée :
  - (i) le jour précédant celui où cet avis est donné, à l'heure de fermeture des bureaux,

(ii) if no notice is given, the day on which the meeting is held; and

(b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution therefor.

Notice of  
date

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register of the corporation at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

(a) by advertisement in a newspaper published or distributed in the place where the provincial corporation has its principal place of business and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and

(b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading.

Notice

**74.**—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of a provincial corporation that is an offering corporation, not less than twenty-one days and, in the case of any other provincial corporation, not less than ten days, but, in either case, not more than fifty days before the meeting to each shareholder entitled to vote at the meeting, to each director and to the auditor.

Idem

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the securities register of the provincial corporation on the date determined under subsection 73 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

Adjournment

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

Idem

(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, section 111 of the *Business Corporations Act*, 1982, as incorporated into this Act by section 86, does not apply.



(ii) en l'absence d'avis, le jour de l'assemblée;

- b) ayant qualité à toutes fins sauf en ce qui concerne le droit de recevoir avis d'une assemblée ou le droit de vote, la date d'adoption de la résolution à ce sujet par les administrateurs, à l'heure de fermeture des bureaux.

(4) Dans le cas où une date de clôture des registres est fixée par les administrateurs, sauf renonciation écrite à l'avis de cette date par chaque actionnaire de la catégorie ou série visée dont le nom paraît au registre des valeurs mobilières à l'heure de fermeture des bureaux le jour où les administrateurs fixent la date de clôture des registres, l'avis de cette date est donné au moins sept jours avant la date ainsi fixée :

Avis de la date

- a) d'une part, dans un journal publié et distribué à l'endroit où est situé l'établissement principal de la compagnie provinciale de même qu'à chaque endroit au Canada où celle-ci a un agent des transferts ou à l'endroit au Canada où le transfert de ses actions peut être inscrit;
- b) d'autre part, au moyen d'un avis écrit envoyé à chaque bourse canadienne où sont cotées ses actions.

**74** (1) Un avis des date, heure et lieu de l'assemblée des actionnaires est envoyé, dans le cas d'une compagnie provinciale qui fait appel au public, entre le cinquantième et le vingt et unième jour qui la précèdent, et dans les autres cas entre le cinquantième et le dixième jour, à chaque actionnaire habile à y voter, à chaque administrateur et au vérificateur de la compagnie.

Avis

(2) Il n'est pas nécessaire d'envoyer l'avis aux actionnaires non inscrits sur le registre de la compagnie provinciale à la date de référence fixée en vertu des paragraphes 73 (2) ou (3). Toutefois, l'absence d'avis ne prive pas l'actionnaire de son droit de vote.

Idem

(3) Sauf disposition contraire du règlement intérieur, il suffit, pour donner avis de l'ajournement d'une assemblée pour une période de moins de trente jours, d'en faire l'annonce lors de l'assemblée initiale.

Ajournement

(4) Dans le cas d'ajournement de l'assemblée à plusieurs reprises pour une période totale d'au moins trente jours, l'avis est donné comme pour une nouvelle assemblée. Toutefois, l'article 111 de la *Loi de 1982 sur les compagnies*, incorporé à la présente loi par l'article 86, n'a d'application que dans le cas d'ajournement à une ou plusieurs reprises pour une période totale de plus de quatre-vingt-dix jours.

Idem

1982, chap. 4

Special  
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting.

Shareholders  
meeting

**75.** Subject to this Act and the by-laws of a provincial corporation,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to subsections 74 (3) and (4) and to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place; and
- (c) the president or, in the president's absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman.

Waiving  
notice

**76.** A shareholder and any other person entitled to attend a meeting of shareholders of a provincial corporation may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where the shareholder attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

(5) Les délibérations des assemblées extraordinaires et annuelles sont réputées des questions spéciales. Font exception à cette règle l'examen du procès-verbal de l'assemblée précédente, des états financiers et du rapport du vérificateur, l'élection des administrateurs de même que le renouvellement du mandat du vérificateur.

Questions  
spéciales

(6) L'avis de l'assemblée dont l'ordre du jour comporte des questions spéciales énonce ou est accompagné d'une note énonçant :

Idem

- a) leur nature, avec suffisamment de détails pour permettre à l'actionnaire de se faire une idée éclairée de celle-ci;
- b) le texte de la résolution spéciale ou du règlement intérieur devant être soumis à l'assemblée.

**75** Sous réserve de la présente loi et du règlement intérieur d'une compagnie provinciale :

Assemblée  
des action-  
naires

- a) il est disposé des questions soumises à l'examen des actionnaires de la compagnie provinciale à la majorité des voix exprimées, et le président de l'assemblée n'a pas voix prépondérante en cas de partage des voix;
- b) le président de l'assemblée peut, avec le consentement de l'assemblée, sous réserve des paragraphes 74 (3) et (4), et sous réserve des conditions que l'assemblée impose, l'ajourner et en changer le lieu;
- c) le président, ou en son absence, un vice-président qui est administrateur, préside l'assemblée des actionnaires. Toutefois, en l'absence de ces personnes dans les quinze minutes qui suivent l'heure fixée pour la tenue de l'assemblée, les actionnaires présents choisissent parmi eux un président.

**76** Les actionnaires et les autres personnes qui ont le droit d'assister à une assemblée des actionnaires de la compagnie provinciale peuvent, de quelque façon que ce soit et à n'importe quel moment, renoncer à l'avis de convocation. Leur présence à l'assemblée équivaut à une telle renonciation, sauf lorsqu'elles y assistent spécialement pour s'opposer aux délibérations pour le motif que l'assemblée n'est pas régulièrement convoquée.

Renonciation  
à l'avis

Proposal

**77.**—(1) A shareholder of a provincial corporation entitled to vote at a meeting of shareholders may,

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which the shareholder would have been entitled to submit a proposal.

Circulating  
proposal

1982, c. 4

(2) Where a provincial corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 of the *Business Corporations Act, 1982*, as incorporated into this Act by section 86, or it shall attach the proposal to the information circular.

Statement in  
support of  
proposal

(3) If so requested by a shareholder giving notice of a proposal, the provincial corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder.

Proposal may  
include  
nominations

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders.

Where subss.  
(2, 3) do  
not apply

(5) A provincial corporation is not required to comply with subsections (2) and (3) where,

- (a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;

**77** (1) L'actionnaire de la compagnie provinciale habile à voter lors de l'assemblée des actionnaires peut :

- a) déposer auprès de la compagnie un avis de proposition;
- b) discuter au cours de cette assemblée des questions qui auraient pu faire l'objet d'une proposition de sa part.

(2) La compagnie provinciale qui reçoit un avis de proposition et sollicite des procurations fait figurer la proposition dans la circulaire d'information de la direction exigée par l'article 112 de la *Loi de 1982 sur les compagnies*, incorporé à la présente loi par l'article 86, ou la fait annexer à la circulaire.

Diffusion de la proposition

1982, chap. 4

(3) À la demande de l'actionnaire qui donne l'avis de proposition, la compagnie provinciale inclut dans la circulaire d'information de la direction ou annexe à la circulaire un exposé d'au plus deux cents mots préparé par celui-ci à l'appui de la proposition, de même que ses nom et adresse.

Déclaration à l'appui de la proposition

(4) La proposition peut faire état de candidatures en vue de l'élection des administrateurs, si elle est signée par un ou plusieurs actionnaires détenant ensemble au moins 5 pour cent des actions ou de celles d'une catégorie ou série donnant le droit de vote lors de l'assemblée à laquelle les propositions doivent être présentées. Le présent paragraphe n'empêche toutefois pas la présentation de candidatures au cours de l'assemblée.

La proposition peut faire état des candidatures

(5) La compagnie provinciale n'est pas tenue de se conformer aux paragraphes (2) et (3) :

Non-application des par. (2) et (3)

- a) si la proposition ne lui est pas soumise au moins soixante jours avant l'expiration d'un délai d'un an à compter de la dernière assemblée annuelle lorsque la question doit être soulevée lors de l'assemblée annuelle, ou au moins soixante jours au préalable dans les autres cas;
- b) s'il apparaît nettement que la proposition a pour objet principal, soit une demande personnelle ou le redressement d'un grief personnel contre la compagnie ou l'un de ses administrateurs, dirigeants ou détenteurs de valeurs mobilières, soit une question qui n'a aucun lien important avec les affaires de la compagnie;



- (c) the corporation, at the shareholder's request, included a proposal in a management information circular relating to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or
- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years preceding the receipt of the shareholder's request and the proposal was defeated.

Where no  
liability

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

Where  
refusal  
to circulate  
proposal

(7) Where a provincial corporation refuses to include a proposal in a management information circular, it shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to the shareholder a statement of reasons for the refusal.

Application  
to Court

(8) Upon the application of a shareholder aggrieved by a provincial corporation's refusal under subsection (7), the High Court of Justice may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit.

Idem

(9) The provincial corporation or any person aggrieved by a proposal may apply to the High Court of Justice for an order permitting the provincial corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit.

Notice to  
Superin-  
tendent

(10) An applicant under subsection (8) or (9) shall give the Superintendent notice of the application and the Superintendent is entitled to appear and be heard in person or by counsel.

Definition  
"proposition"

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders.

Lists of  
shareholders

**78.—**(1) A provincial corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

- c) si au cours des deux ans précédant la réception de sa demande, l'actionnaire avait omis de présenter à l'assemblée, en personne ou par son fondé de pouvoir, une proposition que la compagnie avait fait figurer, à sa demande, dans une circulaire d'information de la direction relative à cette assemblée;
- d) si une proposition à peu près identique a été soumise aux actionnaires dans une circulaire d'information de la direction, ou une circulaire d'information d'un dissident, relative à une assemblée qui a eu lieu dans les deux ans précédant la réception de la demande de l'actionnaire, et a été rejetée.

(6) La compagnie provinciale ou ses mandataires n'engagent pas leur responsabilité pour le seul motif qu'ils diffusent une proposition ou un exposé conformément au présent article.

Responsabilité

(7) La compagnie provinciale qui refuse d'inclure une proposition dans la circulaire d'information de la direction fait parvenir à l'actionnaire qui l'a soumise, dans les dix jours de sa réception, un avis exposant les motifs de son refus.

Refus de diffuser la proposition

(8) À la requête de l'actionnaire lésé par le refus de la compagnie provinciale communiqué aux termes du paragraphe (7), la Haute Cour peut interdire la tenue de l'assemblée au cours de laquelle on tente de présenter la proposition, et peut rendre l'ordonnance additionnelle qu'elle estime pertinente.

Requête

(9) La compagnie provinciale ou toute personne lésée par une proposition peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance autorisant la compagnie à omettre cette proposition de la circulaire d'information de la direction. Le tribunal peut rendre l'ordonnance qu'il estime pertinente s'il est convaincu que le paragraphe (5) s'applique.

Idem

(10) L'auteur de la requête présentée aux termes des paragraphes (8) ou (9) en donne avis au surintendant. Celui-ci peut comparaître et se faire entendre en personne ou par l'intermédiaire d'un avocat.

Avis au surintendant

(11) Dans le présent article, «proposition» s'entend de toute question qu'un actionnaire qui a le droit de voter se propose de soulever lors d'une assemblée des actionnaires.

Définition «proposal»

**78** (1) La compagnie provinciale dresse une liste alphabétique des actionnaires qui ont le droit de recevoir avis des assemblées, en y mentionnant le nombre d'actions détenues par chacun :

Liste des actionnaires

- (a) if a record date is fixed under subsection 73 (2), not later than ten days after such record date; or
- (b) if no record date is fixed,
  - (i) at the close of business on the day immediately preceding the day on which notice is given, or
  - (ii) where no notice is given, on the day on which the meeting is held.

Entitlement  
to vote

(2) Subject to sections 59 to 67, where a provincial corporation fixes a record date under subsection 73 (2), a person named in the list prepared under clause (1) (a) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the record date; and
  - (b) the transferee of those shares,
    - (i) produces properly endorsed share certificates, or
    - (ii) otherwise establishes ownership of the shares,
- and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Idem

(3) Subject to sections 59 to 67, where a provincial corporation does not fix a record date under subsection 73 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of the shares after the date on which the list prepared under clause (1) (b) was prepared; and
- (b) the transferee of those shares,
  - (i) produces properly endorsed share certificates, or

- a) dans les dix jours suivant la date de clôture des registres, si elle est fixée en vertu du paragraphe 73 (2);
- b) à défaut d'une date de clôture des registres :
  - (i) à l'heure de fermeture des bureaux, la veille du jour de l'avis,
  - (ii) en l'absence d'avis, le jour de l'assemblée.

(2) Sous réserve des articles 59 à 67, si la compagnie provinciale fixe une date de clôture des registres aux termes du paragraphe 73 (2), les personnes inscrites sur la liste établie aux termes de l'alinéa (1) a) sont habiles à exercer, à l'assemblée visée par la liste, le droit de vote rattaché aux actions qui figurent en regard de leur nom. Toutefois, le cessionnaire de ces actions peut exercer ce droit dans la mesure où :

- a) d'une part, la cession est postérieure à la date de clôture des registres;
- b) d'autre part, le cessionnaire :
  - (i) ou bien produit les certificats d'actions régulièrement endossés,
  - (ii) ou bien fait d'une autre façon la preuve de son titre,

et exige, au moins dix jours avant l'assemblée ou dans le délai plus court établi par le règlement intérieur de la compagnie, l'inscription de son nom sur la liste.

(3) Sous réserve des articles 59 à 67, si la compagnie provinciale ne fixe aucune date de clôture des registres aux termes du paragraphe 73 (2), les personnes inscrites sur la liste établie aux termes de l'alinéa (1) b) sont habiles à exercer, à l'assemblée visée par la liste, le droit de vote rattaché aux actions qui figurent en regard de leur nom. Toutefois, le cessionnaire de ces actions peut exercer ce droit dans la mesure où :

- a) d'une part, la cession est postérieure à la date à laquelle la liste établie aux termes de l'alinéa (1) b) a été dressée;
- b) d'autre part, le cessionnaire :
  - (i) ou bien produit les certificats d'actions régulièrement endossés,

(ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Examination  
of list

(4) A shareholder of a provincial corporation may examine the list of shareholders,

(a) during usual business hours at the principal place of business of the corporation or at the place where its securities register is maintained; and

(b) at the meeting of shareholders for which the list was prepared.

Quorum

**79.**—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Voting rights

**80.**—(1) Each share in a class of shares of a provincial corporation entitles the holder to one vote at all meetings of holders of that class of shares.

Representative

(2) Where a body corporate or association is a shareholder of a provincial corporation, the provincial corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the provincial corporation.

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he or she represents all the powers it could exercise if it were an individual shareholder.



(ii) ou bien fait d'une autre façon la preuve de son titre,

et exige au moins dix jours avant l'assemblée ou dans le délai plus court établi par le règlement intérieur de la compagnie, l'inscription de son nom sur

– la liste.

(4) L'actionnaire d'une compagnie provinciale peut consulter la liste des actionnaires :

Consultation  
de la liste

a) pendant les heures de bureau à l'établissement principal de la compagnie ou à l'endroit où est situé son registre des valeurs mobilières;

b) lors de l'assemblée des actionnaires pour laquelle la liste a été préparée.

**79** (1) Sauf disposition contraire du règlement intérieur, le quorum est atteint lorsque sont présents ou représentés les détenteurs d'actions disposant de la majorité des voix qui peuvent être exprimées lors d'une assemblée des actionnaires.

Quorum

(2) Sauf disposition contraire du règlement intérieur, il suffit que le quorum soit atteint à l'ouverture de l'assemblée pour que les actionnaires présents puissent délibérer.

Idem

(3) En l'absence de quorum, à l'ouverture de l'assemblée ou après une période de temps que les actionnaires présents jugent suffisante, ces derniers peuvent ajourner l'assemblée à une date, une heure et un lieu précis, mais ne peuvent autrement délibérer.

Idem

**80** (1) Chaque action d'une catégorie d'actions de la compagnie provinciale donne au détenteur le droit d'exprimer une voix aux assemblées des actionnaires détenteurs des actions de cette catégorie.

Droit de vote

(2) La compagnie provinciale qui compte parmi ses actionnaires une personne morale ou une association permet au particulier autorisé à cette fin par résolution des administrateurs ou de la direction de la personne morale ou de l'association de la représenter aux assemblées des actionnaires.

Représentant

(3) Le particulier accrédité aux termes du paragraphe (2) peut exercer, pour le compte de la personne morale ou de l'association qu'il représente, tous les pouvoirs que cette dernière pourrait exercer à titre d'actionnaire si elle était un particulier.

Idem

Joint  
shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them.

Method of  
voting

**81.**—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.

Idem

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.

Entry in  
minutes

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

Effect of  
signed  
resolutions

**82.**—(1) Except for a resolution in relation to which a written statement is submitted by a director under subsection 96 (2) or in relation to which representations in writing are submitted by an auditor under subsection 113 (6),

- (a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and
- (b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

Copy of  
resolution  
kept with  
minutes

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meeting of shareholders.

Requisition  
for  
shareholders  
meeting

**83.**—(1) On notice to the Superintendent, the holders of not less than 5 per cent of the issued shares of a provincial corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.

(4) Sauf disposition contraire du règlement intérieur, si plusieurs personnes détiennent des actions en commun, le codétenteur présent à une assemblée peut, en l'absence des autres, exercer le droit de vote rattaché aux actions. Si plusieurs codétenteurs sont présents ou représentés, ils votent comme un seul actionnaire en ce qui concerne les actions détenues en commun.

Codétenteurs

**81** (1) Sauf disposition contraire du règlement intérieur, le vote lors d'une assemblée des actionnaires se fait à main levée ou, à la demande de tout actionnaire ou fondé de pouvoir habile à voter, au scrutin.

Vote

(2) Les actionnaires ou les fondés de pouvoir peuvent demander un vote au scrutin avant ou après tout vote à main levée.

Idem

(3) Sauf si le vote au scrutin est demandé, l'inscription au procès-verbal de l'assemblée des actionnaires selon laquelle le président a déclaré une proposition adoptée est recevable comme preuve *prima facie* de son adoption sans qu'il soit nécessaire de prouver le nombre de voix favorables ou dissidentes.

Inscription au  
procès-verbal

**82** (1) Sauf s'il s'agit d'une résolution relativement à laquelle une déclaration écrite a été présentée par un administrateur aux termes du paragraphe 96 (2) ou des observations ont été présentées par écrit par le vérificateur aux termes du paragraphe 113 (6) :

La résolution  
tient lieu  
d'assemblée

- a) la résolution écrite signée de tous les actionnaires habiles à voter sur la résolution lors d'une assemblée des actionnaires a la même valeur que si elle avait été adoptée lors d'une telle assemblée;
- b) la résolution écrite portant sur toutes les questions qui doivent, selon la présente loi, être traitées lors d'une assemblée des actionnaires et signée par tous les actionnaires habiles à voter lors de cette assemblée, répond aux conditions de la présente loi relatives à cette assemblée.

(2) Un exemplaire des résolutions visées au paragraphe (1) est conservé avec les procès-verbaux des assemblées.

Exemplaire  
de la résolu-  
tion conser-  
vée avec les  
procès-  
verbaux

**83** (1) Après en avoir notifié le surintendant, les détenteurs d'au moins 5 pour cent des actions émises par la compagnie provinciale et ayant le droit de vote à l'assemblée dont la tenue est demandée peuvent exiger des administrateurs la convocation d'une assemblée aux fins énoncées dans la demande.

Demande de  
convocation

Idem

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the principal place of business of the corporation.

Duty of directors to call meeting

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless,

- (a) a record date has been fixed under subsection 73 (2) and notice thereof has been given under subsection 73 (4);
- (b) the directors have called a meeting of shareholders and have given notice thereof under section 74; or
- (c) the business of the meeting as stated in the requisition includes matters described in clauses 77 (5) (b), (c) and (d).

Where requisitioner may call meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call a meeting.

Calling of meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws and this Part.

Repayment of expenses

(6) The provincial corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally.

Requisition to Court

**84.—**(1) If for any reason it is impracticable to call a meeting of shareholders of a provincial corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws and this Act, or if for any other reason the High Court of Justice thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court considers appropriate.

Idem

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section.



(2) La demande visée au paragraphe (1) énonce les questions devant être traitées lors de l'assemblée et est envoyée à l'établissement principal de la compagnie. Idem

(3) Les administrateurs convoquent une assemblée dès réception de la demande visée au paragraphe (1), pour délibérer des questions qui y sont énoncées, à moins : Obligation des administrateurs de convoquer l'assemblée

- a) que l'avis d'une date de clôture des registres fixée aux termes du paragraphe 73 (2) n'ait déjà été donné aux termes du paragraphe 73 (4);
- b) qu'ils n'aient déjà convoqué une assemblée et donné l'avis prévu à l'article 74;
- c) que des questions à l'ordre du jour énoncées dans la demande ne portent sur les cas visés aux alinéas 77 (5) b), c) et d).

(4) Sous réserve du paragraphe (3), si les administrateurs ne convoquent pas l'assemblée dans les vingt et un jours suivant la réception de la demande visée au paragraphe (1), tout signataire de la demande peut le faire. L'auteur de la demande peut convoquer l'assemblée

(5) L'assemblée convoquée aux termes du présent article l'est d'une manière aussi conforme que possible au règlement intérieur et à la présente partie. Convocation de l'assemblée

(6) Sauf le cas où les actionnaires n'auraient pas agi de bonne foi et dans l'intérêt commun des actionnaires de la compagnie provinciale, celle-ci leur rembourse les frais normaux engagés pour demander, convoquer et tenir l'assemblée. Remboursement des frais

**84** (1) Si elle le juge à propos, notamment dans le cas où il serait impossible pour une raison quelconque de convoquer régulièrement l'assemblée ou de la tenir selon le règlement intérieur ou la présente loi, la Haute Cour peut, à la requête d'un administrateur ou d'un actionnaire habile à voter à l'assemblée, ordonner la convocation et la tenue de l'assemblée conformément à ses directives. Elle peut subordonner l'ordonnance aux conditions qu'elle juge appropriées, notamment celles relatives à la caution pour les frais engagés aux fins de la tenue de l'assemblée. Convocation par le tribunal

(2) Le tribunal peut notamment, à l'occasion d'une assemblée convoquée et tenue en application du présent article, ordonner la modification ou la dispense du quorum exigé par le règlement intérieur ou la présente loi. Idem



Effect of  
meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the provincial corporation duly called, held and conducted.

Notice to  
Superin-  
tendent

(4) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Application  
to  
court re:  
directors and  
auditors

**85.**—(1) A shareholder or director of a provincial corporation or the corporation may apply to the High Court of Justice to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Notice to  
Superin-  
tendent

(2) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Notice of  
orders

(3) Upon an application under this section, the court may make any order it considers appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares.

Proxies  
1982, c. 4

**86.** Part VIII of the *Business Corporations Act, 1982* and the regulations made under that Act in relation to that Part apply with necessary modifications to every provincial corporation as if it were a corporation incorporated under that Act.

(3) L'assemblée convoquée et tenue en application du présent article est, à toutes fins, régulière. Validité de l'assemblée

(4) L'auteur de la requête présentée en vertu du paragraphe (1) en notifie le surintendant avant l'audience, et lui remet une copie de l'ordonnance rendue, le cas échéant. Avis au surintendant

**85** (1) La compagnie provinciale, ainsi que tout actionnaire ou administrateur, peut demander à la Haute Cour par voie de requête de trancher tout différend relatif à l'élection ou à la nomination d'un administrateur ou d'un vérificateur. Requête, administrateur et vérificateur

(2) L'auteur de la requête présentée en vertu du paragraphe (1) en notifie le surintendant avant l'audience, et lui remet une copie de l'ordonnance rendue, le cas échéant. Avis au surintendant

(3) Sur requête présentée en vertu du présent article, le tribunal peut, par ordonnance, prendre toute mesure qu'il estime appropriée et notamment : Idem

- a) interdire à l'administrateur ou au vérificateur dont l'élection ou la nomination est contestée d'agir jusqu'au règlement du différend;
- b) proclamer le résultat de l'élection ou de la nomination litigieuse;
- c) ordonner une nouvelle élection ou une nouvelle nomination, en donnant des directives sur la gestion des affaires de la compagnie en attendant l'élection ou la nomination;
- d) préciser les droits de vote des actionnaires et des personnes qui se prétendent propriétaires d'actions.

**86** La partie VIII de la *Loi de 1982 sur les compagnies* et les règlements pris en application de cette loi à l'égard de cette partie s'appliquent, avec les adaptations nécessaires, à la compagnie provinciale comme s'il s'agissait d'une compagnie constituée en vertu de cette loi. Procurations 1982, chap. 4

## PART VI

## DIRECTORS AND OFFICERS

Directors' duties

**87.** The directors shall manage or supervise the management of the business and affairs of a provincial corporation.

Resolutions

**88.**—(1) The concurrence of a majority of the directors present at a meeting of the directors is necessary to pass any resolution.

By-law by resolution

(2) Unless the instrument of incorporation, this Act or the by-laws otherwise provide, the directors, by resolution, may make, amend or repeal any by-laws that regulate the business or affairs of a provincial corporation.

Confirmation by shareholders

(3) Where a by-law is made, amended or repealed under subsection (2), the directors shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders shall confirm, reject or amend the by-law, amendment or repeal.

Effective date

(4) Where a by-law is made, amended or repealed under subsection (2), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (3) or until it ceases to be effective under subsection (5) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

Rejection, etc.

(5) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (3), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

By-law re shareholder proposal

(6) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 77 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

## PARTIE VI

## ADMINISTRATEURS ET DIRIGEANTS

**87** Les administrateurs gèrent les affaires de la compagnie provinciale, ou supervisent leur gestion.

Fonctions des administrateurs

**88** (1) L'adoption d'une résolution nécessite l'accord d'une majorité des administrateurs présents lors d'une réunion des administrateurs.

Résolutions

(2) Sauf disposition contraire de l'acte constitutif, de la présente loi ou du règlement intérieur, les administrateurs peuvent, par résolution, établir, modifier ou abroger tout règlement intérieur portant sur les affaires de la compagnie provinciale.

Règlement intérieur

(3) Dans le cas d'adoption, de modification ou d'abrogation d'un règlement intérieur aux termes du paragraphe (2), les administrateurs soumettent cette mesure, lors de l'assemblée suivante, aux actionnaires, qui les confirment, les rejettent ou les modifient.

Confirmation par les actionnaires

(4) L'adoption, la modification ou l'abrogation d'un règlement intérieur aux termes du paragraphe (2) prennent effet à compter de la date de la résolution des administrateurs. Après la confirmation de la mesure ou sa modification par les actionnaires, celle-ci demeure en vigueur dans sa teneur initiale ou modifiée selon le cas. Toutefois, son adoption, sa modification ou son abrogation cessent d'avoir effet après leur rejet aux termes du paragraphe (3) ou au cas d'application du paragraphe (5).

Date d'entrée en vigueur

(5) L'adoption, la modification ou l'abrogation du règlement intérieur cessent d'avoir effet à la suite de leur rejet par les actionnaires ou de l'omission des administrateurs de soumettre ces mesures à leur approbation, conformément au paragraphe (3), à compter de la date du rejet ou de l'assemblée des actionnaires au cours de laquelle ces mesures auraient dû être soumises, selon le cas. Toute résolution ultérieure des administrateurs visant essentiellement le même but n'entre en vigueur qu'après sa confirmation par les actionnaires, avec ou sans modifications.

Rejet, etc.

(6) Le règlement intérieur, la modification ou l'abrogation de ce règlement adoptés lors de l'assemblée sur la proposition d'un actionnaire à cet effet présentée conformément à l'article 77 prennent effet à la date de leur adoption et ne nécessitent aucune autre confirmation.

Règlement intérieur issu de la proposition d'un actionnaire

By-law need  
not be so  
described

(7) A by-law need not be described as a by-law in a resolution referred to in this section.

Board of  
directors

**89.**—(1) A provincial corporation shall have at least five directors.

Outside  
directors

(2) At least one half of the directors of a provincial corporation shall be outside directors.

Idem

(3) For the purposes of this Part, an individual is not eligible to be an outside director if,

- (a) the individual holds more than 5 per cent of the voting shares of the corporation or of any of its affiliates;
- (b) the individual is an officer or employee of the corporation or any of its affiliates or has been an officer or employee of the corporation or any of its affiliates within two years of the date on which he or she would become or became a director;
- (c) the individual is a spouse or child of an individual described in clause (a) or (b); or
- (d) the individual is a relative of an individual described in clause (a) or (b) or a relative of the spouse of an individual described in clause (a) or (b) and has the same home as the individual described in clause (a) or (b) or as the spouse of an individual described in clause (a) or (b).

Citizenship

(4) The majority of directors of a provincial corporation shall be resident Canadian citizens.

Change in  
number of  
directors

(5) A provincial corporation may by special resolution increase or decrease the number of its directors but no decrease in the number of directors shall shorten the term of an incumbent director or reduce the number of directors to fewer than five.

Director  
disqualifi-  
cation

**90.** The following persons are disqualified from being a director of a provincial corporation:

1. A person who is not an individual.
2. An individual who is less than eighteen years of age.
3. An individual who is of unsound mind and who has been so found by a court in Canada or elsewhere.



(7) Il n'est pas nécessaire, dans une résolution aux termes du présent article, de désigner un règlement intérieur comme tel.

Désignation  
de règlement  
intérieur non  
nécessaire

**89** (1) La compagnie provinciale compte au moins cinq administrateurs.

Conseil d'ad-  
ministration

(2) Au moins la moitié des administrateurs de la compagnie provinciale sont des administrateurs externes.

Administra-  
teurs externes

(3) Pour l'application de la présente partie, un particulier ne possède pas les qualités requises pour devenir administrateur externe :

Idem

- a) s'il est détenteur de plus de 5 pour cent des actions assorties du droit de vote de la compagnie ou d'un membre du même groupe;
- b) s'il est un dirigeant ou un employé de la compagnie ou d'un membre du même groupe, ou l'a été au cours des deux ans qui ont précédé la date à laquelle il deviendrait administrateur;
- c) s'il est le conjoint ou l'enfant du particulier visé à l'alinéa a) ou b);
- d) s'il est un parent du particulier visé à l'alinéa a) ou b) ou un parent du conjoint de ce dernier et qu'il habite avec le particulier visé à l'alinéa a) ou b) ou avec le conjoint de ce dernier.

(4) Le conseil d'administration d'une compagnie se compose en majorité de citoyens résidents canadiens.

Citoyenneté

(5) Une compagnie provinciale peut, par résolution spéciale, augmenter ou diminuer le nombre de ses administrateurs. Toutefois, une diminution de nombre ne doit pas entraîner l'abrégement du mandat d'un administrateur en fonction ni la réduction du nombre d'administrateurs à moins de cinq.

Modification  
au nombre  
des adminis-  
trateurs

**90** Ne peuvent être administrateurs d'une compagnie provinciale :

Inhabilité

- 1. Les personnes autres que les particuliers.
- 2. Les particuliers de moins de dix-huit ans.
- 3. Les faibles d'esprit qui ont été reconnus comme tels par un tribunal, même étranger.

4. An individual who has the status of bankrupt.
5. An individual who is a director of a corporation not affiliated with the corporation of which the individual wishes to become a director.

Holding  
shares

**91.** Unless the instrument of incorporation or the by-laws otherwise provide, a director of a provincial corporation is not required to hold shares issued by the corporation.

Directors  
named in  
instrument of  
incorporation

**92.**—(1) Each director named in the instrument of incorporation of a provincial corporation shall hold office from the date of issue of the instrument until the first meeting of shareholders following the issue of the instrument.

Election

(2) The shareholders of a provincial corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting, directors to hold office for a term expiring not later than the close of the next annual meeting of shareholders following the election.

Term of a  
director

(3) A director ceases to hold office at the close of the first annual meeting of shareholders following the director's election.

Idem

(4) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders, the incumbent directors continue in office until their successors are elected.

Failure to  
elect

(5) If a meeting of shareholders fails to elect the number of directors required by the by-laws or by subsection 89 (1) by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the provincial corporation pending the holding of a meeting of shareholders in accordance with subsection 97 (2).

Notice to  
Superin-  
tendent

(6) Upon the election of a director, notice of such election shall be given to the Superintendent in the prescribed form.

Cumulative  
voting

**93.** Where the by-laws provide for cumulative voting,

- (a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;

4. Les personnes qui ont le statut de failli.
5. Le particulier qui est administrateur d'une compagnie qui n'est pas membre du même groupe que la compagnie auprès de laquelle celui-ci sollicite un mandat d'administrateur.

**91** Sauf disposition contraire de l'acte constitutif ou du règlement intérieur, la qualité d'actionnaire n'est pas requise de l'administrateur d'une compagnie provinciale.

Détention  
d'actions

**92** (1) Le mandat des administrateurs désignés à l'acte constitutif d'une compagnie provinciale commence à la date de délivrance de l'acte constitutif et se termine à la première assemblée des actionnaires qui suit cette délivrance.

Administrateurs désignés  
dans l'acte constitutif

(2) Les actionnaires d'une compagnie provinciale élisent à leur première assemblée et à chaque assemblée annuelle subséquente les administrateurs, dont le mandat expire au plus tard à la clôture de la prochaine assemblée annuelle des actionnaires qui suit l'élection.

Élection

(3) Le mandat d'un administrateur prend fin à la clôture de la première assemblée annuelle qui suit son élection.

Mandat de  
l'administrateur

(4) Malgré le présent article, le mandat des administrateurs, à défaut d'élection de nouveaux administrateurs lors d'une assemblée des actionnaires, se poursuit jusqu'à l'élection de leurs remplaçants.

Idem

(5) Si en raison de l'incapacité, de l'incapacité ou du décès d'un ou de plusieurs candidats, les actionnaires ne peuvent élire lors d'une assemblée le nombre d'administrateurs requis par le règlement intérieur ou le paragraphe 89 (1), les administrateurs élus à cette assemblée peuvent, si le quorum est atteint, exercer tous les pouvoirs des administrateurs jusqu'à la tenue d'une assemblée des actionnaires conformément au paragraphe 97 (2).

Défaut d'élire

(6) Dès l'élection d'un administrateur, avis en est donné au surintendant, selon la formule prescrite.

Avis au  
surintendant

**93** Lorsque le règlement intérieur prévoit le vote cumulatif :

Vote  
cumulatif

- a) les actionnaires qui ont le droit d'élire les administrateurs disposent d'un nombre de voix égal à celui qui se rattache à leurs actions, multiplié par le nombre d'administrateurs à élire. Ils peuvent exprimer leurs voix en faveur d'un seul ou de plusieurs candidats;

- (b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (c) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed the votes equally among the candidates;
- (d) if the number of candidates nominated for director exceed the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) a director may not be removed from office if the votes cast against removal would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected; and
- (f) the number of directors required by the by-laws may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected.

When  
director  
ceases to  
hold  
office

**94.—**(1) A director of a provincial corporation ceases to hold office upon,

- (a) death or resignation;
- (b) removal under section 95; or
- (c) becoming disqualified under section 90.

Resignation

(2) A resignation of a director becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

Notice to  
Superin-  
tendent

(3) Upon receipt of the resignation of a director, the provincial corporation shall deliver notice to the Superintendent of the resignation together with a copy of any statement made under subsection 96 (2) or (3).

- b) chaque poste d'administrateur fait l'objet d'un vote distinct, sauf adoption à l'unanimité d'une résolution permettant à deux personnes ou plus d'être élues par la même résolution;
- c) l'actionnaire qui a voté pour plus d'un candidat, sans autres précisions, est réputé avoir réparti ses voix également entre les candidats;
- d) si le nombre des candidats est plus grand que celui des postes vacants, les candidats qui recueillent le plus petit nombre de voix sont éliminés jusqu'à ce que le nombre des candidats restants égale celui des postes vacants;
- e) un administrateur ne peut être révoqué lorsque les voix exprimées contre cette mesure suffiraient à assurer l'élection d'un administrateur si elles étaient cumulées lors d'une élection du nombre total des administrateurs prévu par le règlement intérieur, dans le cadre de laquelle le même nombre de voix était exprimé;
- f) le nombre d'administrateurs prévu par le règlement intérieur ne peut être réduit lorsque les voix exprimées contre la motion à cet effet suffiraient à assurer l'élection d'un administrateur, si elles étaient cumulées lors d'une élection du nombre total des administrateurs prévu par le règlement intérieur, dans le cadre de laquelle le même nombre de voix était exprimé.

**94** (1) Le mandat d'un administrateur d'une compagnie provinciale prend fin dès :

Fin du mandat d'un administrateur

- a) son décès ou sa démission;
- b) sa révocation aux termes de l'article 95;
- c) son inhabilité à l'exercer aux termes de l'article 90.

(2) La démission d'un administrateur prend effet à la date de réception par la compagnie provinciale d'un écrit à cet effet ou à la date postérieure qui y est indiquée.

Démission

(3) Dès réception de la démission d'un administrateur, la compagnie provinciale délivre au surintendant un avis à cet effet accompagné, le cas échéant, de la déclaration écrite visée aux paragraphes 96 (2) ou (3).

Avis au surintendant



Removal of  
directors

**95.**—(1) Subject to clause 93 (e), the shareholders of a provincial corporation may by resolution at an annual or special meeting remove any director from office.

Idem

(2) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by resolution at a meeting of the shareholders of that class or series.

Idem

(3) Subject to clauses 93 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 97.

Notice to  
director

**96.**—(1) A director of a provincial corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.

Reasons for  
resignation

(2) A director of a provincial corporation who,

- (a) resigns;
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him or her from office; or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because the director's term of office has expired or is about to expire,

may submit to the corporation a written statement giving the reasons for the resignation or the reasons, if any, why he or she opposes any proposed action or resolution, as the case may be.

Idem

(3) Where a director of a provincial corporation resigns because he or she disagrees with an action or omission of the board of directors or of the management of the corporation and,

- (a) the director knows or believes that as a result of the action or omission the corporation or any shareholder, director, officer or employee of the corporation is or will be in contravention of this Act, the *Securities Act* or the *Criminal Code* (Canada) or legislation of another jurisdiction that is comparable to this Act or the *Securities Act*; or

**95** (1) Sous réserve de l'alinéa 93 e), les actionnaires de la compagnie provinciale peuvent, lors d'une assemblée annuelle ou extraordinaire, révoquer un administrateur par voie de résolution.

Révocation  
des  
administra-  
teurs

(2) Si les détenteurs d'une catégorie ou d'une série d'actions ont le droit exclusif d'élire un ou plusieurs administrateurs, l'administrateur ainsi élu ne peut être révoqué que par voie de résolution, adoptée lors d'une assemblée des actionnaires intéressés.

Idem

(3) Sous réserve des alinéas 93 a) à d), toute vacance découlant d'une révocation peut être comblée lors de l'assemblée qui a prononcé la révocation ou, à défaut, aux termes de l'article 97.

Idem

**96** (1) Les administrateurs ont le droit de recevoir avis des assemblées d'actionnaires, d'y assister et d'y prendre la parole.

Avis à l'admi-  
nistrateur

(2) L'administrateur qui :

Motifs de  
démission

- a) démissionne;
- b) est informé, notamment au moyen d'un avis, de la convocation d'une assemblée en vue de le révoquer;
- c) est informé, notamment au moyen d'un avis, de la tenue d'une réunion du conseil d'administration ou d'une assemblée convoquées en vue de nommer ou d'élire son remplaçant, par suite de sa démission, de sa révocation ou de l'expiration effective ou imminente de son mandat,

peut, dans une déclaration écrite, exposer à la compagnie les motifs de sa démission ou, le cas échéant, de son opposition à la mesure ou à la résolution proposées.

(3) L'administrateur de la compagnie provinciale dont la démission est provoquée par une mesure ou une omission de la part du conseil d'administration ou de la direction présente à la compagnie une déclaration écrite exposant les motifs de sa démission :

Idem

- a) s'il sait ou croit que la mesure ou l'omission a entraîné ou entraînera de la part de la compagnie ou de son actionnaire, administrateur, dirigeant ou employé, une contravention à la présente loi, à la *Loi sur les valeurs mobilières*, aux lois semblables d'une autre compétence législative, ou au *Code criminel* (Canada);

L.R.O. 1980,  
chap. 466  
S.R.C. 1970,  
chap. C-34

- (b) the director knows or believes that as a result of the action or omission there has been or will be a change in the circumstances of the corporation that might materially and adversely affect the financial position of the corporation,

the director shall submit to the corporation a written statement giving the reasons for the resignation.

Distribution  
of statement

(4) Upon receiving a statement under subsection (2), the corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders unless the statement is included in or attached to a management information circular.

No liability

(5) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (4).

Idem

(6) A person who in good faith makes a statement under subsection (3) shall not be liable in any civil action arising out of the statement.

Notice to  
Superin-  
tendent

(7) A director who resigns as director of a provincial corporation shall forthwith give notice to the Superintendent of the resignation and a copy of any written statement given under this section.

Additional  
information

(8) Forthwith upon receipt of the written request of the Superintendent, a director who gives a notice under subsection (7) shall provide the Superintendent with such information related to the resignation as is set out in the request.

Vacancies

**97.**—(1) Subject to subsections (3) and (4), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from,

- (a) an increase in the number of directors; or
- (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.

Election to  
make  
quorum

(2) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the by-laws or by subsection 89 (1), the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder.

- b) s'il sait ou croit que la mesure ou l'omission a entraîné ou entraînera une modification de la situation de la compagnie pouvant porter gravement atteinte à sa situation financière.

(4) Dès réception de la déclaration aux termes du paragraphe (2), la compagnie en envoie une copie à chaque actionnaire ayant le droit de recevoir avis des assemblées, sauf si la déclaration figure ou est annexée à une circulaire d'information de la direction.

Distribution de copies de la déclaration

(5) La compagnie et la personne agissant en son nom n'engagent pas leur responsabilité pour le seul motif qu'ils diffusent conformément au paragraphe (4) la déclaration faite par un administrateur.

Absence de responsabilité

(6) La personne qui, de bonne foi, fait la déclaration visée au paragraphe (3) n'engage pas sa responsabilité lors de toute poursuite civile qui s'ensuit.

Idem

(7) L'administrateur de la compagnie provinciale qui démissionne en donne sans délai avis au surintendant, accompagné d'une copie de toute déclaration écrite présentée aux termes du présent article.

Avis au surintendant

(8) Lorsqu'il reçoit une demande écrite du surintendant à cet effet, l'administrateur qui donne l'avis visé au paragraphe (7) fournit sans délai au surintendant les renseignements ayant trait à la démission que précise la demande.

Renseignements additionnels

**97** (1) Sous réserve des paragraphes (3) et (4), les administrateurs peuvent, s'il y a quorum, pourvoir aux vacances survenues au sein du conseil, sauf celles qui résultent :

Postes vacants

- a) d'une augmentation du nombre d'administrateurs;
- b) du défaut d'élire le nombre d'administrateurs à élire lors d'une assemblée d'actionnaires.

(2) En l'absence de quorum ou à défaut d'élire le nombre d'administrateurs requis par le règlement intérieur ou par le paragraphe 89 (1), les administrateurs en fonction convoquent dans les meilleurs délais une assemblée extraordinaire des actionnaires afin de pourvoir aux vacances survenues au sein du conseil. S'ils négligent de le faire ou s'il n'y a aucun administrateur en fonction, tout actionnaire peut convoquer cette assemblée.

Élection d'administrateurs pour former le quorum



Election by  
class of  
shareholders

(3) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (4), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or
- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

No quorum

(4) The by-laws may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series.

Term

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor.

Director's  
fitness

**98.**—(1) The election or appointment of a person to the board of directors of a provincial corporation does not take effect until the corporation has satisfied the Superintendent that the person is fit, both as to character and competence, to be a director of a corporation and the Superintendent has approved the election or appointment of the person as a director.

Information

(2) The Superintendent may require a corporation to provide such information, material and evidence as the Superintendent may consider necessary to decide the fitness of a person to be a director.

Deemed  
approval

(3) If the Superintendent does not notify a corporation, within thirty days of being asked to approve the appointment or election of a proposed director, that he or she is satisfied that the proposed director is fit to be a director or give notice of the time and place of a hearing on the matter, he or she shall be deemed to be satisfied as to the person's fitness to be a director.

Non-  
application

(4) Subsections (1) to (3) do not apply,

- (a) to a person who on the day this section comes into force is a director of a corporation so long as he or she remains a director of the corporation; or



(3) Si les détenteurs d'une catégorie ou d'une série d'actions ont le droit exclusif d'élire un ou plusieurs administrateurs, les vacances survenues parmi ces administrateurs peuvent être comblées :

Élection par catégories d'actions

- a) sous réserve du paragraphe (4) et à l'exception des vacances résultant du défaut d'élire le nombre requis d'administrateurs ou d'une augmentation de ce nombre, par les administrateurs en fonction élus par cette catégorie ou cette série;
- b) en l'absence d'administrateurs en fonction, lors de l'assemblée que les détenteurs d'actions de cette catégorie ou série peuvent convoquer pour pourvoir aux vacances.

(4) Le règlement intérieur peut prévoir que les vacances au sein du conseil d'administration seront comblées uniquement à la suite d'un vote, soit des actionnaires, soit des détenteurs de la catégorie ou série ayant le droit exclusif d'élire les administrateurs dont il s'agit.

Absence de quorum

(5) L'administrateur nommé ou élu pour combler une vacance remplit la partie non expirée du mandat de son prédécesseur.

Durée

**98** (1) L'élection ou la nomination d'une personne au conseil d'administration de la compagnie provinciale ne prend effet que lorsque le surintendant est convaincu par des preuves qui lui sont présentées par la compagnie que le candidat est apte, du point de vue de la moralité et de la compétence, à exercer les fonctions d'administrateur et que le surintendant y a donné son approbation.

Aptitudes de l'administrateur

(2) Le surintendant peut exiger que la compagnie lui fournisse les renseignements, les documents ainsi que la preuve qu'il estime nécessaires pour évaluer l'aptitude du candidat à exercer ces fonctions.

Renseignements

(3) Le surintendant est réputé convaincu de l'aptitude d'un candidat à exercer les fonctions d'administrateur si, dans les trente jours de la demande d'approbation de la nomination ou de l'élection du candidat, il n'a pas avisé la compagnie de son assentiment ou n'a pas fixé la date et l'endroit pour la tenue d'une audience pour connaître de la question.

Approbation réputée

(4) Les paragraphes (1) à (3) ne s'appliquent pas à la personne :

Non-application des par. (1) à (3)

- a) qui est administrateur de la compagnie au moment de l'entrée en vigueur du présent article, tant qu'elle demeure en fonction;

- (b) to a person who has been approved under this section so long as he or she remains a director of the corporation.

Place of  
meetings

**99.**—(1) Where the by-laws of a provincial corporation so provide, a meeting of its board of directors may be held at any place within Canada and otherwise shall be held at its principal place of business.

Minimum  
number  
of meetings

(2) The board of directors shall meet at least five times in each year.

Quorum

(3) Subject to the by-laws and subsection (4), a majority of the number of directors required by the by-laws constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors, of which one must be an outside director.

Idem

(4) Subject to the instrument of incorporation or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Calling  
meeting of  
directors

(5) In addition to any other provision in the by-laws of a provincial corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(6) Subject to the by-laws of the provincial corporation, notice of the time and place for the holding of the meeting called under subsection (5) shall be given to each director of the corporation by sending the notice ten days or more before the date of the meeting to the last address of the director as shown on the records of the corporation.

Waiver of  
notice

(7) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

Adjourned  
meeting

(8) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

Meeting by  
telephone,  
etc.

(9) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting

- b) dont la nomination ou l'élection a fait l'objet d'une approbation aux termes du présent article, tant qu'elle demeure en fonction.

**99** (1) Lorsque le règlement intérieur le prévoit, les réunions du conseil d'administration de la compagnie provinciale peuvent se tenir n'importe où au Canada. Dans les autres cas, elles se tiennent à l'endroit de son établissement principal.

Lieu des  
réunions

(2) Les administrateurs tiennent au moins cinq réunions par année.

Nombre mini-  
mal de  
réunions

(3) Sous réserve du règlement intérieur et du paragraphe (4), la majorité du nombre d'administrateurs exigé par les règlements constitue le quorum à toute réunion des administrateurs. Toutefois, le quorum ne doit en aucun cas être inférieur aux deux cinquièmes de ce nombre et doit inclure un administrateur externe.

Quorum

(4) Sous réserve de l'acte constitutif ou du règlement intérieur, en cas de vacance au sein du conseil d'administration les administrateurs en fonction peuvent exercer tous les pouvoirs du conseil tant qu'il y a quorum.

Idem

(5) En outre de toute disposition du règlement intérieur relative à la convocation des réunions des administrateurs, un groupe de ceux-ci formant quorum peut convoquer une réunion des administrateurs aux fins de délibérer sur toute question dont l'objet est indiqué en termes généraux dans l'avis de convocation.

Convocation  
de la réunion  
des adminis-  
trateurs

(6) Sous réserve du règlement intérieur, avis des date, heure et lieu de la réunion convoquée aux termes du paragraphe (5) est envoyé, au moins dix jours avant la date de la réunion, à chaque administrateur à la dernière adresse connue de ce dernier qui figure aux dossiers de la compagnie.

Avis

(7) Les administrateurs peuvent, de quelque façon que ce soit et à n'importe quel moment, renoncer à l'avis de convocation. Leur présence à la réunion équivaut à une telle renonciation, sauf lorsqu'ils y assistent spécialement pour s'opposer aux délibérations pour le motif que la réunion n'est pas régulièrement convoquée.

Renonciation  
à l'avis

(8) Il n'est pas nécessaire de donner avis de l'ajournement d'une réunion si les date, heure et lieu de la reprise sont annoncés lors de la réunion initiale.

Ajournement  
de la réunion

(9) Sauf disposition contraire du règlement intérieur et si tous les administrateurs présents ou qui participent à la réu-

Réunion par  
téléphone,  
etc.

consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting.

Place of  
meeting by  
telephone

(10) If a majority of the directors participating in a meeting held under subsection (9) is then in Canada, the meeting shall be deemed to have been held in Canada.

Executive  
committee

**100.**—(1) The shareholders of a provincial corporation, by special resolution and subject to subsection (2), may authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be appointed by the directors from their number and at least one member of the executive committee shall be an outside director.

Limitations  
on authority

(2) No executive committee has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or the members of the audit committee, the investment committee or the approvals committee or in the office of auditor or appoint or remove the chief operating officer, however designated, the chief executive officer, however designated, the chief financial officer, however designated, the chairman of the board or the president of the corporation;
- (c) issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 53;
- (g) approve a management information circular;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular or any amendment to any such circular referred to in Part XIX of the *Securities Act*;



nion du conseil ou de son comité y consentent, ceux-ci peuvent y prendre part en utilisant des moyens techniques de communication, notamment le téléphone ou des moyens électroniques, permettant à tous les participants de communiquer entre eux de façon simultanée et instantanée. L'administrateur qui participe de cette façon à la réunion est réputé, pour l'application de la présente loi, y avoir assisté.

(10) Est réputée avoir lieu au Canada la réunion tenue aux termes du paragraphe (9) si la majorité des administrateurs participants se trouvent alors au Canada.

Lieu de la  
réunion par  
téléphone

**100** (1) Les actionnaires d'une compagnie provinciale peuvent, par résolution spéciale et sous réserve du paragraphe (2), autoriser les administrateurs à former un comité directeur composé d'au moins trois d'entre eux, dont l'un au moins soit un administrateur externe, et à déléguer un ou plusieurs de leurs pouvoirs à ce comité.

Comité  
directeur

(2) Le comité directeur ne peut :

Limitation  
des pouvoirs

- a) soumettre aux actionnaires des questions qui nécessitent leur approbation;
- b) pourvoir au poste d'un administrateur, d'un membre du comité de vérification, du comité de placements ou du comité d'approbation, ou du vérificateur, nommer ou destituer le responsable de l'exploitation, le responsable de la direction ou le responsable des finances, quelle que soit leur désignation, de même que le président du conseil d'administration ou le président de la compagnie;
- c) émettre des valeurs mobilières, sauf selon les modalités et aux conditions autorisées par les administrateurs;
- d) déclarer des dividendes;
- e) acquérir, notamment par achat ou rachat, des actions émises par la compagnie;
- f) verser la commission visée à l'article 53;
- g) approuver une circulaire d'information de la direction;
- h) approuver une circulaire d'offre d'achat visant à la mainmise, une circulaire de la direction ou une circulaire d'offre d'achat de l'émetteur visées à la partie XIX de la *Loi sur les valeurs mobilières* ou une modification de celles-ci;

L.R.O. 1980,  
chap. 466



- (i) approve any financial statements under subsection 120 (1);
- (j) adopt, amend or repeal by-laws;
- (k) approve any item requiring approval of the board of directors under Part IX; or
- (l) approve the written procedures described in section 154.

Further  
limitation

(3) No business shall be transacted by an executive committee unless at least one outside director is present at the meeting.

Chairman

**101.**—(1) The directors of a provincial corporation shall elect from among themselves a chairman of the board.

Delegation of  
powers to  
officers

(2) The directors,

- (a) may designate the offices of the corporation and may appoint officers to those offices and specify their duties; and
- (b) may delegate to the officers of the corporation the power to manage the business and affairs of the corporation.

Idem

(3) The directors shall not delegate to the officers of the corporation any power that, under subsection 100 (2), cannot be exercised by an executive committee.

Qualifications

(4) Where the regulations prescribe qualifications for appointment as an officer, the directors shall not appoint a person who does not have those qualifications.

Delegation of  
fiduciary  
powers

**102.**—(1) Notwithstanding any law related to fiduciaries, the shareholders of a provincial trust corporation, by special resolution, may authorize the directors to delegate to the chief executive officer any powers of the corporation under a deed, will or other document creating a trust and such a delegation may authorize the chief executive officer to further delegate any such powers to any other officer or officers of the corporation.

Effect of  
exercise of  
power

(2) The exercise of a power by a person to whom it is delegated under subsection (1) constitutes an exercise of the power by the corporation.

- i) approuver les états financiers visés au paragraphe 120 (1);
- j) adopter, modifier ou révoquer un règlement intérieur;
- k) approuver une mesure qui nécessite l'approbation du conseil d'administration aux termes de la partie IX;
- l) approuver la procédure écrite visée à l'article 154.

(3) Le comité directeur ne doit pas délibérer sans qu'au moins un administrateur externe soit présent. Autre restriction

**101** (1) Les administrateurs de la compagnie provinciale choisissent parmi eux le président du conseil d'administration. Président du conseil d'administration

(2) Les administrateurs peuvent : Délégation de pouvoirs aux dirigeants

- a) déterminer les divers postes de direction de la compagnie, y nommer des dirigeants et préciser leurs fonctions;
- b) déléguer aux dirigeants de la compagnie le pouvoir de gérer ses affaires.

(3) Les administrateurs ne doivent pas déléguer aux dirigeants de la compagnie un pouvoir qui, aux termes du paragraphe 100 (2), ne peut pas être exercé par un comité directeur. Idem

(4) Les administrateurs ne doivent pas nommer au poste de dirigeant la personne qui n'a pas les qualités prescrites par les règlements, le cas échéant. Qualités prescrites

**102** (1) Malgré toute loi ayant trait aux fiduciaires, les actionnaires d'une compagnie de fiducie provinciale peuvent, au moyen d'une résolution spéciale, autoriser les administrateurs à déléguer au responsable de la direction des pouvoirs que la compagnie possède en vertu d'un acte, d'un testament ou d'un autre document établissant une fiducie. La délégation peut en outre conférer au responsable de la direction le pouvoir de déléguer à son tour à un ou plusieurs dirigeants de la compagnie un ou plusieurs de ces pouvoirs. Délégation de pouvoirs fiduciaires

(2) L'exercice d'un pouvoir par la personne à laquelle il a été délégué en vertu du paragraphe (1) est assimilé à son exercice par la compagnie. Effet de l'exercice du pouvoir

Written  
procedures

(3) Before any powers are delegated pursuant to a special resolution described in subsection (1), the corporation shall establish written procedures related to the exercise of the powers by a delegate.

Development  
of procedures

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least once each year by the investment committee.

Idem

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

Approval by  
board

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary.

Extra-  
provincial  
corporation

(7) This section also applies to an extra-provincial trust corporation with respect to the delegation of powers under any deed, will or other document creating a trust governed by the law of Ontario if the corporation is not prevented by the law of the jurisdiction in which it is incorporated from making such a delegation.

Audit and  
investment  
committees

**103.**—(1) The directors of a provincial corporation shall appoint from their number an audit committee and an investment committee which committees shall fulfil such duties as are required by this Act and as are prescribed by the regulations.

Idem

(2) Each committee appointed under subsection (1) shall consist of at least three members and a majority of the members shall be outside directors.

Acts not  
invalid

**104.** An act done by the board of directors or by an officer is not invalid by reason only of any defect that is thereafter discovered in the appointment, election or qualification of any of the directors or of the officer.

Resolutions

**105.**—(1) A resolution, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors.

(3) Avant que des pouvoirs ne soient délégués aux termes d'une résolution spéciale visée au paragraphe (1), la compagnie établit une procédure écrite ayant trait à l'exercice des pouvoirs par un délégué.

Procédure  
écrite

(4) Le comité de placements du conseil d'administration de la compagnie établit la procédure visée au paragraphe (3) et la réexamine au moins une fois l'an.

Élaboration  
de la  
procédure

(5) Le comité de placements présente au conseil d'administration un rapport concernant le réexamen visé au paragraphe (4) et lui fait ses recommandations, le cas échéant, relativement à la procédure visée au paragraphe (3).

Idem

(6) La procédure visée au paragraphe (3) est subordonnée à l'approbation du conseil d'administration. Ce dernier, sur une recommandation du comité des placements, réexamine la procédure et y apporte les modifications qui s'imposent.

Approbation  
du conseil  
d'administra-  
tion

(7) En ce qui concerne la délégation de pouvoirs en vertu d'un acte, d'un testament ou d'un autre document établissant une fiducie régie par la loi de l'Ontario, le présent article s'applique également aux compagnies extraprovinciales, à l'exception toutefois des compagnies auxquelles une telle délégation est interdite par les lois de leur territoire de constitution.

Compagnie  
extra-  
provinciale

**103** (1) Les administrateurs de la compagnie provinciale choisissent parmi eux les membres d'un comité de vérification et d'un comité de placements aux fins d'exercer les fonctions prévues pour ces comités par la présente loi et prescrites par les règlements.

Comités de  
placements et  
de vérification

(2) Les comités visés au paragraphe (1) se composent d'au moins trois membres dont la majorité sont des administrateurs externes.

Idem

**104** Les actes accomplis par les membres du conseil d'administration ou les dirigeants ne sont pas invalides pour le seul motif de l'irrégularité de leur élection ou de leur nomination ou de leur défaut des qualités requises, constatée ultérieurement.

Validité des  
actes

**105** (1) La résolution signée de tous les administrateurs habiles à voter, en ce qui concerne cette résolution, lors d'une réunion du conseil ou de son comité a la même valeur que si elle avait été adoptée au cours d'une telle réunion.

Résolutions

Idem (2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors.

Liability **106.**—(1) Directors of a provincial corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution.

Idem (2) Directors of a provincial corporation who vote for or consent to a resolution authorizing,

- (a) any investment or transaction contrary to Part IX;
- (b) a purchase, redemption or other acquisition of shares contrary to section 47 or 48;
- (c) a reduction in the stated capital of the corporation contrary to section 50;
- (d) a commission contrary to section 53;
- (e) a payment of a dividend contrary to section 54;
- (f) a payment of an indemnity contrary to section 110;
- (g) a payment to a shareholder contrary to an order under section 211; or
- (h) any other payment to a shareholder, director or officer the effect of which is to reduce the capital base of the corporation to an amount that is less than that required under this Act,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by it.

Joint  
liability

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded.



(2) Un exemplaire de chaque résolution visée au paragraphe (1) est conservé avec les procès-verbaux des réunions du conseil ou du comité. Idem

**106** (1) Les administrateurs de la compagnie provinciale qui, par vote ou acquiescement, adoptent une résolution autorisant l'émission d'actions en contrepartie d'un apport autre qu'en monnaie sont solidairement tenus de donner à la compagnie la différence entre la juste valeur de cet apport et l'équivalent en monnaie qu'elle aurait reçu si l'action avait été émise à la date de la résolution en contrepartie d'un apport en monnaie. Responsabilité

(2) Les administrateurs qui ont, par vote ou acquiescement, approuvé l'adoption d'une résolution autorisant : Idem

- a) un placement ou une opération contrairement à la partie IX;
- b) l'acquisition, notamment par achat ou rachat, d'actions contrairement aux articles 47 ou 48;
- c) une réduction du capital déclaré contrairement à l'article 50;
- d) le versement d'une commission contrairement à l'article 53;
- e) le versement d'un dividende contrairement à l'article 54;
- f) le versement d'une indemnité contrairement à l'article 110;
- g) le versement de sommes d'argent à des actionnaires contrairement à une ordonnance aux termes de l'article 211;
- h) tout autre paiement à un actionnaire, à un administrateur ou à un dirigeant dont l'effet est de réduire l'apport en capital de la compagnie à un montant inférieur à celui exigé par la présente loi,

sont solidairement tenus de restituer à la compagnie les sommes ainsi versées et que celle-ci n'a pas recouvrées autrement.

(3) L'administrateur qui a satisfait au jugement rendu en vertu du présent article peut répéter les sommes ainsi restituées contre chacun des administrateurs pour sa part lorsque ceux-ci ont, par vote ou acquiescement, approuvé l'adoption de la mesure illicite en cause. Responsabilité partagée

Application  
to Court

(4) A director found liable under this section is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX, section 47, 48, 50, 53, 54 or 110 or an order made under section 211.

Idem

(5) Where an application is made under subsection (4), the court may, if it is satisfied that it is equitable to do so,

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX or section 47, 48, 50, 53, 54 or 110 or an order made under section 211;
- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.

Limitation  
period

(6) No action under subsection (1) or (2) shall be commenced in any court more than two years after the facts upon which the action is based first came to the attention of the plaintiff.

Defence

(7) A director is not liable under this section or under section 108 in respect of anything done in reliance on a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to the report, if the director acts in good faith, with reasonable grounds and after reasonable investigation.

Liability  
for wages

**107.**—(1) The directors of a provincial corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the provincial corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder or under any collective agreement made by the provincial corporation.

R.S.O. 1980,  
c. 137

Limitation

(2) A director is liable under subsection (1) only if,

(4) L'administrateur tenu responsable aux termes du présent article peut demander à la Haute Cour, par voie de requête, une ordonnance obligeant les bénéficiaires, notamment les actionnaires, à lui remettre les fonds ou biens versés ou donnés contrairement à la partie IX, les articles 47, 48, 50, 53, 54 ou 110 ou à l'ordonnance rendue aux termes de l'article 211. -

Requête

(5) Lors de la requête visée au paragraphe (4), le tribunal peut, s'il estime équitable de le faire :

Ordonnance  
du tribunal

- a) ordonner aux bénéficiaires de remettre à l'administrateur les fonds ou les biens versés ou donnés contrairement à la partie IX, aux articles 47, 48, 50, 53, 54 ou 110 ou à l'ordonnance rendue aux termes de l'article 211;
- b) ordonner à la compagnie soit de rétrocéder les actions à la personne de qui elle les a acquises, notamment par achat ou rachat, soit d'en émettre en sa faveur;
- c) rendre les ordonnances additionnelles qu'il estime pertinentes.

(6) Est irrecevable l'action intentée en vertu des paragraphes (1) ou (2) plus de deux ans après que les faits sur lesquels se fonde l'action sont venus à la connaissance du demandeur.

Prescription

(7) Un administrateur n'est pas tenu responsable aux termes du présent article ni aux termes de l'article 108 à l'égard de ce qu'il fait en se fondant sur le rapport d'un avocat, d'un comptable, d'un ingénieur, d'un évaluateur ou d'une autre personne dont la profession ajoute à la crédibilité du rapport, si l'administrateur agit de bonne foi, pour des motifs raisonnables et à la suite d'une enquête raisonnable.

Moyen de  
défense

**107** (1) Les administrateurs sont solidairement responsables envers les employés, jusqu'à concurrence de six mois de salaire, pour des dettes qui résultent de l'exécution par ceux-ci de services pour le compte de la compagnie provinciale et qui deviennent exigibles durant leur mandat. Il en est de même pour les indemnités de vacance accumulées durant leur mandat, pour une période maximale de douze mois, aux termes de la *Loi sur les normes d'emploi* et de ses règlements ou d'une convention collective à laquelle la compagnie provinciale est partie.

Responsabilité  
pour salairesL.R.O. 1980,  
chap. 137

(2) Un administrateur n'est responsable aux termes du paragraphe (1) que si :

Limitation

- (a) the director is sued while a director or within six months after ceasing to be a director; and
- (b) the action against the director is commenced within six months after the debt became payable, and
  - (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or
  - (ii) before or after the action is commenced the corporation is deemed insolvent and is ordered to be wound up under the *Winding-Up Act* (Canada).

R.S.C. 1970,  
c. W-10

Idem

(3) Where execution referred to in clause (2) (b) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Rights of  
director who  
pays debt  
R.S.C. 1970,  
c. W-10

(4) Where a director pays a debt under subsection (1), the director is entitled to any preference that the employee would have been entitled to under the *Winding-Up Act* (Canada), and, where a judgment has been obtained, the director is entitled to an assignment of the judgment.

Contribution

(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

Deemed  
director

**108.**—(1) For the purpose of this section, a director or officer includes a person acting in a capacity similar to, or performing functions of, a director or officer.

Standard of  
care

(2) Every director and officer of a provincial corporation in exercising his or her powers and in discharging his or her duties,

- (a) shall act honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) shall exercise the care, diligence and skill of a reasonably prudent director or officer, as the case may be, under comparable circumstances.

Idem

(3) In considering whether a particular transaction or course of action is in the best interests of the provincial corporation as a whole, a director or officer shall have due regard



a) d'une part, une action en recouvrement est intentée contre lui au cours de son mandat ou dans les six mois qui en suivent la cessation;

b) d'autre part, l'action contre lui est intentée dans les six mois après que la dette est devenue exigible et :

(i) soit que cette action en recouvrement est intentée à la fois contre l'administrateur et la compagnie, et que la saisie-exécution pratiquée contre la compagnie ne peut satisfaire au montant accordé par le jugement,

(ii) soit que la compagnie est réputée insolvable et fait l'objet d'une ordonnance de mise en liquidation en vertu de la *Loi sur les liquidations* (Canada), avant ou après l'introduction de l'action.

S.R.C. 1970,  
chap. W-10

(3) Lorsque la saisie-exécution visée à l'alinéa (2) b) a été pratiquée, les administrateurs ne sont tenus responsables que des sommes restant à recouvrer.

Idem

(4) L'administrateur qui acquitte les dettes visées au paragraphe (1) est subrogé aux droits de priorité de l'employé en vertu de la *Loi sur les liquidations* (Canada) et, si un jugement a été rendu, a le droit d'en exiger la cession.

Droit de l'administrateur  
qui a acquitté les dettes  
S.R.C. 1970,  
chap. W-10

(5) L'administrateur qui acquitte une dette aux termes du présent article peut répéter la somme versée, chacun pour sa part, contre les administrateurs qui étaient également responsables.

Répartition

**108** (1) Pour l'application du présent article, les termes «administrateur» et «dirigeant» s'entendent en outre des personnes qui exercent des fonctions d'un administrateur ou d'un dirigeant, ou qui agissent à titre semblable.

Administrateur  
réputé

(2) Les administrateurs et les dirigeants de la compagnie provinciale agissent, dans l'exercice de leurs attributions :

Norme  
applicable

a) avec intégrité et de bonne foi, en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie;

b) avec le soin, la diligence et la compétence dont ferait preuve dans des circonstances semblables l'administrateur ou le dirigeant, selon le cas, raisonnablement prudent.

(3) Pour déterminer si une opération ou une mesure donnée est susceptible de servir l'intérêt véritable de l'ensemble de la

Idem



to the interests of the depositors, as well as the shareholders of the corporation and, in the case of a trust corporation, shall also have due regard to the interests of the persons for whom it acts in a fiduciary capacity.

Duty to  
comply with  
Act

(4) Every director and officer of a provincial corporation shall comply with this Act and the regulations and the corporation's instrument of incorporation and by-laws.

Cannot  
contract out  
of liability

(5) No provision in a contract, the instrument of incorporation or the by-laws or a resolution relieves a director or officer of a provincial corporation from the duty to act in accordance with this Act and the regulations or relieves the director or officer from liability for a breach thereof.

Consent of  
director at  
meeting

**109.**—(1) A director who is present at a meeting of directors or committee of directors shall be deemed to have consented to any resolution passed or action taken thereat unless,

- (a) the director's dissent is entered in the minutes of the meeting;
- (b) the director requests that a dissent be entered in the minutes of the meeting;
- (c) the director sends a written dissent to the secretary of the meeting before the meeting is terminated; or
- (d) the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented thereto unless within seven days after becoming aware of the resolution or action the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting.

Indemnifica-  
tion

**110.**—(1) A provincial corporation may indemnify a person who is a director or officer of the corporation or a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor or for which the corporation acted in a fiduciary capacity, and the person's heirs and personal representatives, against all costs, charges and expenses, including an

compagnie provinciale, l'administrateur ou le dirigeant tient compte de l'intérêt des déposants comme de celui des actionnaires, ainsi que des personnes pour le compte desquelles la compagnie agit en qualité de fiduciaire, dans le cas d'une compagnie de fiducie.

(4) Les administrateurs et les dirigeants de la compagnie provinciale observent la présente loi et les règlements et se conforment à l'acte constitutif de la compagnie ainsi qu'au règlement intérieur.

Obligation  
d'observer la  
présente loi

(5) Nulle disposition d'un contrat, de l'acte constitutif, du règlement intérieur ou d'une résolution ne peut libérer les administrateurs ou les dirigeants de l'obligation d'agir conformément à la présente loi et aux règlements ni des responsabilités qui en découlent.

Exonération  
interdite

**109** (1) L'administrateur présent à une réunion du conseil ou d'un comité de celui-ci est réputé avoir acquiescé aux résolutions adoptées et aux mesures prises, sauf si sa dissidence, selon le cas :

Acquiesce-  
ment lors  
des réunions

- a) est consignée au procès-verbal;
- b) fait l'objet de sa demande à cet effet;
- c) fait l'objet d'un avis écrit qu'il envoie au secrétaire de la réunion avant la fin de celle-ci;
- d) est remise ou envoyée par courrier recommandé à l'établissement principal de la compagnie, immédiatement après la fin de la réunion.

(2) L'administrateur qui, par vote ou acquiescement, approuve l'adoption d'une résolution n'est pas fondé à faire valoir sa dissidence aux termes du paragraphe (1).

Idem

(3) L'administrateur absent d'une réunion au cours de laquelle une résolution a été adoptée ou une mesure prise est réputé y avoir acquiescé, sauf si, dans les sept jours suivant la date où il prend connaissance de cette résolution ou mesure, il envoie sa dissidence par courrier recommandé ou la remet à l'établissement principal de la compagnie et demande qu'elle soit consignée au procès-verbal de la prochaine réunion.

Idem

**110** (1) La compagnie provinciale peut indemniser les personnes qui sont ou ont été ses administrateurs ou dirigeants ou les personnes qui, à sa demande, agissent ou ont agi en cette qualité auprès d'une personne morale dont la compagnie

Indemnisation  
des adminis-  
trateurs

amount paid to settle an action or satisfy a judgment, reasonably incurred by or on behalf of the person in respect of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of such corporation or body corporate if,

- (a) the person acted honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the conduct was lawful.

Idem

(2) A corporation may, with the approval of the High Court of Justice, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which the person is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and expenses reasonably incurred by or on behalf of the person in connection with such action if the person fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the person in connection with the defence of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

- (a) was substantially successful on the merits in the defence of the action or proceeding; and
- (b) fulfils the conditions set out in clauses (1) (a) and (b).

Liability  
insurance

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by the person in the person's capacity as a director or officer of the corporation, except where the liability relates to a failure to act honestly and in good faith with a view to the best interests of the corporation as a whole.

est actionnaire, créancière ou représentant fiduciaire, ainsi que leurs héritiers et ayants droit, de tous les frais et débours normaux, y compris les sommes versées pour la transaction d'une instance ou pour l'exécution d'un jugement, engagées par les personnes ou en leur nom lors d'une instance civile, pénale ou administrative à laquelle ils étaient parties en raison de leurs fonctions, à condition que ceux-ci :

- a) d'une part, aient agi avec intégrité et de bonne foi en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie;
- b) d'autre part, dans le cas d'instances pénales ou administratives donnant lieu au versement d'une amende, aient eu de bonnes raisons de croire que leur conduite était conforme à la loi.

(2) La compagnie peut, avec l'approbation de la Haute Idem  
Cour, indemniser les personnes visées au paragraphe (1) des frais et débours normaux engagés par les personnes ou en leur nom relativement à une instance intentée par la compagnie ou la personne morale ou pour le compte de celles-ci, en vue d'obtenir un jugement en leur faveur, et à laquelle elles étaient parties en raison de leurs fonctions, si les personnes remplissent les conditions énoncées aux alinéas (1) a) et b).

(3) Malgré le présent article, les personnes visées au paragraphe (1) ont le droit d'être indemnisées par la compagnie Idem  
des frais et débours normaux engagés relativement à la défense d'une instance civile, pénale ou administrative à laquelle elles étaient parties en raison de leurs fonctions, si :

- a) elles ont obtenu gain de cause sur la plupart de leurs moyens de défense, sur le fond;
- b) elles remplissent les conditions énoncées aux alinéas (1) a) et b).

(4) La compagnie peut souscrire au profit d'une personne Assurance-  
responsabilité  
visée au paragraphe (1) une assurance couvrant la responsabilité qu'elle encourt pour avoir agi en qualité d'administrateur ou de dirigeant de la compagnie, à l'exception de la responsabilité découlant du défaut d'agir avec intégrité et de bonne foi en vue de favoriser l'intérêt véritable de l'ensemble de la compagnie.



Application  
to Court

(5) A corporation or a person referred to in subsection (1) may on notice to the Superintendent apply to the High Court of Justice for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Idem

(6) Upon an application under subsection (5), the court may order that notice be given to any interested person and such person is entitled to appear and be heard in person or by counsel.

Remuneration  
of directors

**111.** The shareholders of a provincial corporation shall fix the remuneration of the directors.

Attendance  
records

**112.**—(1) Each provincial corporation shall keep a record of the total number of meetings of the directors and of the audit and investment committees and the number of such meetings attended by each director.

Idem

(2) A summary of the record kept under subsection (1) shall be sent to each shareholder and to the Superintendent with the notice of the annual meeting and shall be available on request to any depositor of the corporation.

## PART VII

### AUDITORS AND FINANCIAL STATEMENTS

Auditors

**113.**—(1) The shareholders of a provincial corporation at their first annual or special meeting shall appoint an auditor to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment.

Idem

(2) The shareholders of every provincial corporation shall at each annual meeting appoint an auditor to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual  
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of  
auditor

(4) Except where the auditor has been appointed under subsection (8), the shareholders of a provincial corporation, by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, may remove an auditor before the expiration of the auditor's term of office, and



(5) La compagnie ou l'une des personnes visées au paragraphe (1) peuvent, sur avis au surintendant, présenter devant la Haute Cour une requête en approbation d'une indemnité aux termes du présent article. Le tribunal peut rendre une ordonnance à cet effet ainsi que toute ordonnance additionnelle qu'il juge opportune.

Requête

(6) Le tribunal peut ordonner que l'avis d'une requête présentée aux termes du paragraphe (5) soit donné à tout intéressé, qui peut comparaître et se faire entendre en personne ou par l'intermédiaire d'un avocat.

Idem

**111** Les actionnaires de la compagnie provinciale fixent la rémunération des administrateurs.

Rémunération  
des adminis-  
trateurs

**112** (1) La compagnie provinciale tient un dossier où sont consignées toutes les réunions du conseil d'administration ainsi que des comités de vérification et de placements et qui précise le nombre de ces réunions auxquelles chacun des administrateurs a assisté.

Dossier des  
présences

(2) Un résumé du dossier tenu aux termes du paragraphe (1) est annexé à l'avis de convocation de l'assemblée annuelle et envoyé à chacun des actionnaires ainsi qu'au surintendant. Le résumé peut être consulté par les déposants de la compagnie à leur demande.

Idem

## PARTIE VII

### VÉRIFICATEURS ET ÉTATS FINANCIERS

**113** (1) Les actionnaires de la compagnie provinciale nomment, à la première assemblée annuelle ou extraordinaire, un vérificateur dont le mandat expire à la clôture de la première assemblée annuelle ou de l'assemblée annuelle suivante, selon le cas. À défaut d'être nommé par les actionnaires, le vérificateur est nommé sans délai par les administrateurs.

Vérificateurs

(2) Les actionnaires nomment, à chaque assemblée annuelle, un vérificateur dont le mandat expire à la clôture de la prochaine assemblée annuelle. À défaut de nomination, le vérificateur en fonction poursuit son mandat jusqu'à la nomination de son successeur.

Idem

(3) Les administrateurs peuvent combler toute vacance fortuite du poste de vérificateur. Le vérificateur survivant ou alors en fonction, s'il y en a, peut agir dans l'intervalle.

Vacance  
fortuite

(4) Sauf si le vérificateur a été nommé en vertu du paragraphe (8), les actionnaires peuvent le révoquer avant l'expiration de son mandat par une résolution adoptée à la majorité

Révocation  
d'un  
vérificateur

shall, by a majority of the votes cast at that meeting, appoint another auditor for the remainder of the removed auditor's term.

## Notice

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right to  
make  
represent-  
ations

(6) An auditor of a provincial corporation has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning,

- (a) his or her proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his or her resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

## Remuneration

(7) The remuneration of an auditor of a provincial corporation appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment  
by Court

(8) If a provincial corporation does not have an auditor, the High Court of Justice, upon the application of a director, a shareholder or the Superintendent, may appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders.

Notice of  
appointment

(9) A provincial corporation, forthwith after the appointment of a person as auditor, shall give written notice of the appointment to the person and to the Superintendent.

des voix exprimées lors d'une assemblée extraordinaire dûment convoquée à cette fin. Lors de cette assemblée ils nomment à la majorité des voix son remplaçant pour la durée du mandat qui reste à courir.

(5) Avant de convoquer soit une assemblée extraordinaire pour les fins visées au paragraphe (4), soit une assemblée annuelle ou extraordinaire si le conseil ne recommande pas de renouveler le mandat du vérificateur en fonction, la compagnie fait parvenir au vérificateur, au moins quinze jours avant l'envoi de l'avis de convocation :

Avis au  
vérificateur

- a) un avis écrit de son intention de convoquer l'assemblée en y indiquant la date proposée pour l'envoi de l'avis de convocation;
- b) un exemplaire de chacun des documents relatifs à l'assemblée devant être envoyés aux actionnaires.

(6) Le vérificateur de la compagnie provinciale a le droit de soumettre à la compagnie, au moins trois jours avant l'envoi de l'avis de convocation de l'assemblée, des observations par écrit concernant :

Droit de sou-  
mettre ses  
observations

- a) sa révocation proposée comme vérificateur;
- b) la nomination ou l'élection d'une autre personne pour combler son poste;
- c) sa démission en tant que vérificateur.

La compagnie, à ses propres frais, joint un exemplaire de ces observations à l'avis de convocation et le fait parvenir à chaque actionnaire qui a le droit de recevoir cet avis.

(7) La rémunération du vérificateur de la compagnie provinciale nommé par les actionnaires est fixée par ces derniers, ou par les administrateurs s'ils sont autorisés à cet effet par les actionnaires. La rémunération du vérificateur nommé par les administrateurs est fixée par ces derniers.

Rémunération

(8) Si la compagnie provinciale n'a pas de vérificateur, la Haute Cour, à la requête d'un administrateur, d'un actionnaire ou du surintendant, peut lui en nommer un et fixer sa rémunération. Ce vérificateur demeure en fonction jusqu'à la nomination de son successeur par les actionnaires.

Nomination  
par la Haute  
Cour

(9) Lorsqu'un vérificateur a été nommé, la compagnie provinciale en avise sans délai celui-ci et le surintendant par écrit.

Avis de la  
nomination

Notice of  
vacancy

(10) Where a provincial corporation has a vacancy in the office of auditor, it shall give notice of the vacancy forthwith to the Superintendent.

Right to  
attend  
shareholder  
meetings

**114.**—(1) The auditor of a provincial corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, may attend and be heard at any such meeting on matters relating to his or her duties as auditor.

Attend upon  
request

(2) If any director or shareholder of a provincial corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, at least five days before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting, at the expense of the corporation, and answer questions relating to his or her duties as auditor.

Idem

(3) An auditor is not required to comply with subsection (2) where it clearly appears that the request under subsection (2) is made primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the duties of the auditor.

Idem

(4) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation.

Replacement  
auditor

(5) No person shall accept appointment or consent to be appointed as auditor of a provincial corporation if the person is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until the person has requested and received from that auditor a written statement of the circumstances surrounding and the reasons, in the departing auditor's opinion, for the replacement.

Idem

(6) Notwithstanding subsection (5), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, the person does not receive a reply.

Idem

(7) A person receiving a statement under subsection (5) shall promptly deliver a copy of the statement to the Superintendent and if no statement is received from the auditor being replaced within fifteen days after the request referred to in subsection (5), the person requesting the statement shall promptly give notice to the Superintendent of this fact.



(10) La compagnie provinciale avise sans délai le surintendant de toute vacance survenue au poste de vérificateur.

Avis de poste vacant

**114** (1) Le vérificateur de la compagnie provinciale a le droit de recevoir avis de toute assemblée d'actionnaires et peut y assister aux frais de la compagnie et y être entendu sur toute question relative à ses fonctions en tant que vérificateur.

Le vérificateur assiste à l'assemblée des actionnaires

(2) Lorsqu'un administrateur ou un actionnaire habile ou non à voter donnent au vérificateur ou à l'ancien vérificateur de la compagnie provinciale avis écrit, au moins cinq jours avant l'assemblée, celui-ci y assiste aux frais de la compagnie et répond à toute question relative à ses fonctions en tant que vérificateur.

Présence nécessaire sur demande

(3) Le vérificateur n'est pas tenu de se conformer au paragraphe (2) s'il apparaît nettement que sa convocation a pour objet principal, soit une demande personnelle ou le redressement d'un grief personnel contre la compagnie ou l'un de ses administrateurs, dirigeants ou détenteurs de valeurs mobilières, soit une question qui n'a aucun lien important avec les fonctions du vérificateur.

Idem

(4) L'administrateur ou l'actionnaire qui envoie l'avis visé au paragraphe (2) envoie simultanément copie à la compagnie.

Idem

(5) Nul ne doit accepter de remplacer le vérificateur de la compagnie provinciale qui a démissionné ou a été révoqué ou dont le mandat est expiré ou est sur le point d'expirer, avant d'avoir demandé et obtenu que celui-ci expose par écrit les circonstances de son remplacement, ainsi que les motifs qui, à son avis, l'expliquent.

Nouveau vérificateur

(6) Malgré le paragraphe (5), toute personne par ailleurs compétente peut accepter d'être nommée vérificateur si, dans les quinze jours suivant la demande visée à ce paragraphe, elle ne reçoit pas de réponse.

Idem

(7) La personne qui reçoit l'exposé écrit visé au paragraphe (5) envoie promptement une copie au surintendant. L'auteur d'une demande qui ne reçoit pas cet exposé dans les quinze jours en notifie promptement le surintendant.

Idem



Idem

(8) Any interested person may apply to the High Court of Justice for an order declaring the office of auditor of a provincial corporation to be vacant if the auditor has not complied with subsection (5), unless subsection (6) applies with respect to the appointment of the auditor.

No liability

**115.**—(1) An auditor or former auditor who in good faith makes an oral or written statement or report under this Act shall not be liable in any civil action arising therefrom.

Exceptions

(2) Subsection (1) does not relieve an auditor or former auditor from liability in connection with a report referred to in subsection 118 (1) or clause 120 (1) (b).

Disqualification

**116.**—(1) A person is disqualified from being an auditor of a provincial corporation, unless the person is an accountant and independent of,

- (a) the corporation and its affiliates; and
- (b) the directors and officers of the corporation and its affiliates.

Idem

(2) For the purposes of this section,

- (a) independence is a question of fact; and
- (b) a person shall be deemed not to be independent if,
  - (i) the person, the person's business partner or a spouse or child of the person or partner who has the same home as the person or partner, as the case may be,
  - (A) is a business partner, director or officer of the corporation or any of its affiliates,
  - (B) beneficially owns directly or indirectly or exercises control or direction over 10 per cent or more of the voting shares of the corporation or any of its affiliates, or
  - (C) has been a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy of the corporation or any of its affiliates within two years of the person's proposed appointment as auditor of the corporation, or

(8) Toute personne intéressée peut, par voie de requête, demander à la Haute Cour de rendre une ordonnance aux fins de déclarer vacant le poste de vérificateur, si ce dernier ne s'est pas conformé au paragraphe (5), sauf le cas d'application du paragraphe (6). Idem

**115-** (1) Le vérificateur ou son prédécesseur qui de bonne foi fait une déclaration ou un rapport, oraux ou écrits, aux termes de la présente loi ne peut pas être tenu responsable dans toute instance civile qui en résulte. Absence de responsabilité

(2) Le paragraphe (1) ne dégage pas le vérificateur ou son prédécesseur de la responsabilité à l'égard du rapport visé au paragraphe 118 (1) ou à l'alinéa 120 (1) b). Exceptions

**116** (1) Pour être vérificateur d'une compagnie provinciale, il faut être comptable et être indépendant : Qualités requises

- a) de la compagnie et des membres du même groupe;
- b) des administrateurs et dirigeants de la compagnie et de ceux des membres du même groupe.

(2) Pour l'application du présent article : Idem

- a) l'indépendance est une question de fait;
- b) une personne est réputée ne pas être indépendante si :

(i) la personne, son associé ou le conjoint ou l'enfant de la personne ou de l'associé qui habite avec la personne ou avec l'associé, selon le cas :

(A) est un associé, administrateur ou dirigeant de la compagnie ou d'un membre du même groupe,

(B) est le propriétaire à titre bénéficiaire, directement ou indirectement, de 10 pour cent ou plus des actions de la compagnie assorties du droit de vote ou de celles des membres du même groupe, ou détient le contrôle de ce nombre de ces actions,

(C) a été le séquestre, l'administrateur-séquestre, le liquidateur ou le syndic de faillite de la compagnie ou d'un membre du même groupe dans les deux ans précédant la proposition de sa nomination au poste de vérificateur,

- (ii) the person or the person's business partner is an employee of the corporation or any of its affiliates.

Saving

(3) No person shall be disqualified from acting as the auditor of a provincial corporation solely on the grounds that the person is a depositor in the corporation.

Resignation

(4) An auditor who becomes disqualified under this section shall resign forthwith upon becoming aware of the disqualification.

Application to Court

(5) An interested person may apply to the High Court of Justice for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Auditor appointment for subsidiary

**117.** A provincial corporation shall, where practical, cause its auditor or one of its auditors to be appointed auditor of any body corporate in which the corporation has invested its funds under section 169, and where such appointment is not practical, the provincial corporation shall inform the Superintendent of the circumstances that prevent the appointment.

Examination

**118.—**(1) An auditor of a provincial corporation shall make such examination of the financial statements required by this Act and the regulations to be placed before shareholders and of the annual return to be filed with the Superintendent under section 135 as is necessary to enable the auditor to report thereon and the auditor shall report as prescribed and in accordance with generally accepted auditing standards.

Reporting error

(2) A director or an officer of a provincial corporation shall forthwith notify the audit committee and the auditor or the former auditor, if applicable, of any error or misstatement of which the director or officer becomes aware in a financial statement or annual return filed with the Superintendent that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be material.

Idem

(3) If an auditor or former auditor of a provincial corporation is notified or becomes aware of an error or misstatement in a financial statement or return filed with the Superintendent upon which the auditor or former auditor has reported and if, in the opinion of the auditor or former auditor, the error or misstatement is material, the auditor or former auditor shall inform each director.

- (ii) la personne ou son associé est un employé de la compagnie ou d'un membre du même groupe.

(3) Ne constitue pas une inhabilité à exercer les fonctions de vérificateur, le seul fait d'être déposant auprès de la compagnie provinciale. Exception

(4) Le vérificateur qui apprend qu'il est devenu inhabile aux termes du présent article démissionne sans délai. Démission

(5) Toute personne intéressée peut, par voie de requête, demander à la Haute Cour de rendre une ordonnance déclarant que le vérificateur est inhabile aux termes du présent article et que le poste est vacant. Requête à la Haute Cour

**117** La compagnie provinciale fait nommer, si cela est pratique, l'un de ses vérificateurs à ce titre auprès de la personne morale dans laquelle la compagnie a effectué des placements aux termes de l'article 169. S'il n'est pas pratique de faire cette nomination, la compagnie provinciale fait part au surintendant des circonstances qui l'empêchent. Vérificateur nommé auprès d'une filiale

**118** (1) Le vérificateur procède à l'examen des états financiers que la présente loi et les règlements exigent de soumettre aux actionnaires ainsi que du rapport annuel devant être déposé auprès du surintendant aux termes de l'article 135 qui est nécessaire afin de lui permettre de produire son rapport. Il fait ce rapport selon les modalités prescrites et conformément aux normes de vérification généralement reconnues. Examen

(2) Tout administrateur ou dirigeant avise sans délai le comité de vérification de même que le vérificateur ou son prédécesseur, selon le cas, des erreurs ou des renseignements inexacts dont il prend connaissance dans les états financiers ou le rapport annuel déposé auprès du surintendant et qui ont fait l'objet d'un rapport de la part du vérificateur ou de l'un de ses prédécesseurs, si ces erreurs ou renseignements inexacts semblent importants compte tenu des circonstances. Avis d'erreurs

(3) Le vérificateur ou celui de ses prédécesseurs qui prend connaissance d'erreurs ou de renseignements inexacts dans des états financiers ou le rapport déposé auprès du surintendant et qui ont fait l'objet d'un rapport de sa part, en informe chaque administrateur s'il est d'avis que ces erreurs ou renseignements inexacts sont importants. Idem



Revised  
financial  
statements

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall promptly prepare and issue revised financial statements or otherwise inform the shareholders.

Notice to  
Superin-  
tendent

(5) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a return filed with the Superintendent, the directors shall promptly notify the Superintendent.

Right of  
access

(6) Upon the demand of an auditor of a provincial corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such,

(a) information and explanations; and

(b) access to records, documents, books, accounts and vouchers of the corporation and any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

Idem

(7) Upon the demand of the auditor of a provincial corporation, the directors of the corporation shall,

(a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section; and

(b) furnish the information and explanations so obtained to the auditor.

No liability

(8) A person who in good faith makes an oral or written communication under subsection (6) or (7) shall not be liable in any civil action arising therefrom.

Reports to  
board

**119.—**(1) The auditor shall report to the board of directors of the provincial corporation whenever he or she becomes aware that,



(4) Lorsque le vérificateur ou son prédécesseur informent les administrateurs de l'existence d'erreurs ou de renseignements inexacts dans les états financiers aux termes du paragraphe (3), les administrateurs en informent promptement les actionnaires, notamment en dressant et en publiant des états financiers rectifiés.

États financiers rectifiés

(5) Les administrateurs notifient promptement le surintendant des erreurs ou des renseignements inexacts reproduits dans un rapport qui est déposé auprès de celui-ci et qui leur sont signalés par le vérificateur ou son prédécesseur aux termes du paragraphe (3).

Avis au surintendant

(6) À la demande du vérificateur, les administrateurs, dirigeants, employés ou mandataires de la compagnie provinciale ou leurs prédécesseurs doivent :

Droit d'accès

- a) lui donner des renseignements et des éclaircissements;
- b) lui donner accès aux dossiers, documents, livres, comptes et pièces justificatives de la compagnie ou de ses filiales,

qui, à son avis, sont nécessaires aux fins de l'examen et du rapport visés par le présent article et que ces personnes sont raisonnablement en mesure de fournir.

(7) À la demande du vérificateur, les administrateurs de la compagnie provinciale doivent :

Idem

- a) obtenir des administrateurs, dirigeants, employés ou mandataires de toute filiale de la compagnie ou de leurs prédécesseurs, tous les renseignements et éclaircissements que ces personnes sont raisonnablement en mesure de fournir et qui, de l'avis du vérificateur, sont nécessaires aux fins de l'examen et du rapport visés par le présent article;
- b) communiquer au vérificateur les renseignements et éclaircissements ainsi obtenus.

(8) La personne qui de bonne foi fait une divulgation orale ou écrite aux termes des paragraphes (6) ou (7) ne peut pas être tenue responsable dans toute instance civile qui en résulte.

Absence de responsabilité

**119** (1) Lorsque le vérificateur apprend l'existence d'une des circonstances suivantes, il fait rapport au conseil d'administration de la compagnie provinciale :

Rapport au conseil d'administration

- (a) there has been a change in the circumstances of the corporation that might reasonably be expected to materially and adversely affect the financial position of the corporation;
- (b) there are circumstances that indicate that there may have been a contravention of this Act or the regulations; or
- (c) there are circumstances that indicate that there may have been a contravention of the *Securities Act*, the *Income Tax Act* (Canada) or the regulations made under those Acts.

R.S.O. 1980,  
c. 466  
R.S.C. 1952,  
c. 148

Idem

(2) The auditor shall make a report under subsection (1) immediately upon becoming aware of a change or contravention described in that subsection.

Notice to  
Superin-  
tendent

(3) The auditor shall report to the Superintendent any matter dealt with in a report under subsection (1) which in the opinion of the auditor could affect the well-being of the provincial corporation and has not been corrected or appropriately responded to by the board of directors within thirty days of the day that the matter was reported to the board of directors.

Exception

(4) An auditor is not required to make a report under this section unless the auditor becomes aware of the change or contravention described in subsection (1) in the ordinary course of his or her duties as auditor.

Financial  
statements,  
etc., to be  
given to  
shareholders

**120.**—(1) The directors of a provincial corporation shall place before each annual meeting of shareholders,

- (a) financial statements in consolidated form for the fiscal year ending on the last day of October, November or December before the annual meeting made up of,
  - (i) a statement of income for the year,
  - (ii) a statement of retained earnings for the year,
  - (iii) a statement of changes in financial position for the year,
  - (iv) a balance sheet as at the end of the year,
  - (v) for the second and subsequent fiscal years, the comparative figures for the preceding year;

- a) la conjoncture dans laquelle se trouve la compagnie a subi une modification vraisemblablement susceptible de porter gravement atteinte à sa situation financière;
- b) certaines indications signalent qu'il y a peut-être eu contravention à la présente loi ou aux règlements;
- c) certaines indications signalent qu'il y a peut-être eu contravention à la *Loi sur les valeurs mobilières*, à la *Loi de l'impôt sur le revenu* (Canada) ou aux règlements pris en application de ces lois.

L.R.O. 1980,  
chap. 466  
S.R.C. 1952,  
chap. 148

(2) Le vérificateur fait rapport aux termes du paragraphe (1) dès qu'il a connaissance de la modification ou de la contravention visées à ce paragraphe.

Idem

(3) Le vérificateur fait rapport au surintendant de toute situation relevée dans le rapport prévu au paragraphe (1) qui, à son avis, est susceptible de porter atteinte à la bonne marche de la compagnie provinciale et que le conseil d'administration n'a pas corrigée ou à laquelle il n'a pas donné réponse dans les trente jours de la date à laquelle la situation lui a été signalée.

Rapport au  
surintendant

(4) Le vérificateur n'est pas tenu de faire rapport aux termes du présent article, à moins que la modification ou la contravention visées au paragraphe (1) ne soient portées à sa connaissance lors de l'exercice normal de ses fonctions en tant que vérificateur.

Exception

**120** (1) Les administrateurs de la compagnie provinciale présentent à chaque assemblée annuelle des actionnaires :

États finan-  
ciers remis  
aux  
actionnaires

- a) des états financiers consolidés pour l'exercice se terminant le dernier jour d'octobre, de novembre ou de décembre qui précède l'assemblée annuelle et qui comprennent :
  - (i) l'état des résultats de cet exercice,
  - (ii) l'état des bénéfices non répartis de cet exercice,
  - (iii) l'état de l'évolution de la situation financière pendant cet exercice,
  - (iv) le bilan à la fin de l'exercice,
  - (v) les chiffres correspondants de l'exercice précédent, s'il s'agit du deuxième exercice ou d'un exercice subséquent;

- (b) the report of the auditor to the shareholders on the statements referred to in subclauses (a) (i) to (iv);
- (c) the financial statement of the corporation in consolidated form;
- (d) any further information respecting the financial position of the corporation and the results of its operations required by its instrument of incorporation or its by-laws or by this Act or the regulations.

Copy of documents to shareholders

(2) A provincial corporation, not less than twenty-one days before each annual meeting of shareholders unless such period is waived by the shareholders, shall send a copy of the documents referred to in this section to each shareholder, except those who have informed the corporation in writing that they do not wish to receive copies of the documents.

Copy of documents to depositors

(3) A provincial corporation shall mail or deliver without charge a copy of the documents referred to in this section to every depositor of the corporation who in writing requests a copy.

Preparation of financial statements

**121.** The financial statements required under this Act shall be prepared in accordance with this Act and the regulations and, except as otherwise required under this Act and the regulations, in accordance with generally accepted accounting principles.

Audit committee

**122.—**(1) The audit committee of a provincial corporation shall meet at least twice each year to review,

- (a) any financial statements distributed to the shareholders;
- (b) the annual returns of the corporation filed with the Superintendent under section 135;
- (c) all reports of the auditor under section 119; and
- (d) any reports or transactions required by the regulations to be reviewed by the audit committee.

Idem

(2) In the case of statements and returns that under this Act must be approved by the board of directors of a provincial corporation, the audit committee shall report thereon to the board before the approval is given.

Auditor's attendance

(3) The auditor of a provincial corporation is entitled to attend and be heard at all meetings of the audit committee and shall attend at least two of its meetings each year.



- b) le rapport du vérificateur destiné aux actionnaires concernant les états financiers visés aux sous-alinéas a) (i) à (iv);
- c) les états financiers non consolidés de la compagnie;
- d) tout renseignement supplémentaire concernant la situation financière de la compagnie ainsi que le produit de ses opérations qu'exigent son acte constitutif, son règlement intérieur, la présente loi ou les règlements.

(2) Sauf si les actionnaires renoncent à ce délai, la compagnie provinciale envoie au moins vingt et un jours avant l'assemblée annuelle à ceux d'entre eux qui n'ont pas exprimé par écrit leur désir de ne pas les recevoir, une copie des documents visés au présent article.

Exemplaire  
des docu-  
ments aux  
actionnaires

(3) La compagnie provinciale poste ou délivre gratuitement, à chaque déposant qui en fait la demande par écrit, une copie des documents visés au présent article.

Exemplaire  
des docu-  
ments aux  
déposants

**121** Les états financiers exigés aux termes de la présente loi sont dressés en conformité avec celle-ci et les règlements et, sauf disposition contraire de la présente loi ou des règlements, selon les normes comptables généralement reconnues.

Établissement  
des états  
financiers

**122** (1) Les membres du comité de vérification de la compagnie provinciale se réunissent au moins deux fois l'an afin d'examiner :

Comité de  
vérification

- a) les états financiers remis aux actionnaires;
- b) les rapports annuels de la compagnie déposés auprès du surintendant aux termes de l'article 135;
- c) tous les rapports du vérificateur visés à l'article 119;
- d) les rapports et opérations dont les règlements exigent un examen par le comité de vérification.

(2) Le comité de vérification fait préalablement rapport au conseil d'administration des états et des rapports qui doivent être approuvés par celui-ci aux termes de la présente loi.

Idem

(3) Le vérificateur de la compagnie provinciale a le droit d'assister et d'être entendu à toutes les réunions du comité de vérification, et doit y assister au moins deux fois l'an.

Présence du  
vérificateur



Calling  
meeting

(4) The auditor, a member of the audit committee or a director may call a meeting of the audit committee of a provincial corporation at any time.

Attendance  
at  
meetings of  
board of  
directors

(5) The auditor of a provincial corporation is entitled to attend and be heard at meetings of the board of directors on matters relating to his or her duties as auditor.

Notice of  
meetings

(6) The board of directors and the audit committee of a provincial corporation shall give reasonable notice of their meetings to the corporation's auditor.

Approval by  
directors

**123.**—(1) The financial statements of a provincial corporation shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statements.

Idem

(2) One of the directors signing a balance sheet as required by subsection (1) must be a member of the audit committee.

Publishing,  
etc., of  
financial  
statements

(3) A provincial corporation shall not circulate copies of the financial statements of the provincial corporation referred to in section 120 unless the financial statements are,

(a) approved and signed in accordance with subsections (1) and (2); and

(b) accompanied by the report of the auditor of the corporation.

Interim  
financial  
statement

**124.**—(1) A provincial corporation that is an offering corporation shall send to each shareholder a copy of every interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.

R.S.O. 1980,  
c. 466

Idem

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the date to which it is made up, at the shareholder's latest address as shown on the records of the corporation.

Exception

(3) Notwithstanding subsection (2), interim financial statements need not be sent to those shareholders who have informed the corporation in writing that they do not wish to receive them.

(4) Le comité de vérification de la compagnie provinciale peut être convoqué par l'un de ses membres, par le vérificateur ou par un administrateur.

Convocation  
aux réunions

(5) Le vérificateur de la compagnie provinciale a le droit d'assister aux réunions du conseil d'administration et à y être entendu sur toute question relative à ses fonctions en tant que vérificateur.

Présence aux  
réunions du  
conseil d'ad-  
ministration

(6) Le conseil d'administration et le comité de vérification de la compagnie provinciale donnent au vérificateur de la compagnie un préavis suffisant de leurs réunions.

Préavis des  
réunions

**123** (1) Les états financiers doivent recevoir l'approbation du conseil d'administration, qui doit être attestée par la signature au bas du bilan de deux des administrateurs dûment autorisés à cet effet. Le rapport du vérificateur accompagne les états financiers ou y est annexé.

Approbation  
par les admi-  
nistrateurs

(2) L'un des administrateurs qui appose sa signature au bas du bilan conformément au paragraphe (1) doit être membre du comité de vérification.

Idem

(3) La compagnie provinciale ne doit diffuser les états financiers visés à l'article 120 que s'ils :

Diffusion des  
états  
financiers

- a) ont été approuvés et signés conformément aux paragraphes (1) et (2);
- b) sont accompagnés du rapport du vérificateur.

**124** (1) La compagnie provinciale qui fait appel au public envoie à chaque actionnaire un exemplaire de chaque état financier périodique dont la *Loi sur les valeurs mobilières* et ses règlements exigent le dépôt.

État financier  
périodique  
L.R.O. 1980,  
chap. 466

(2) L'état financier périodique visé au paragraphe (1) est envoyé, dans un délai de soixante jours après la date de son établissement, à chaque actionnaire à sa dernière adresse qui paraît aux dossiers de la compagnie.

Idem

(3) Malgré le paragraphe (2), il n'est pas nécessaire d'envoyer des états financiers périodiques aux actionnaires qui ont exprimé par écrit leur désir de ne pas les recevoir.

Exception

## PART VIII

## BOOKS, RECORDS AND RETURNS

## Records

**125.**—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any photographic system, any system of mechanical or electronic data processing or any other information storage system and it shall be kept for such period as may be prescribed.

## Security of records and availability

(2) A corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded in its records; and
- (b) provide means for making the information recorded in its records available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

## Admissibility of records in evidence

(3) The bound or looseleaf book referred to in subsection (1) or, where the record is not kept in a book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

## False information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or knowing any information to be untrue, shall record or assist in recording it in a record.

## Location of records

**126.**—(1) Every registered corporation shall keep its instrument of incorporation and its by-laws at its principal place of business or at such place in Ontario other than the principal place of business as the directors designate and the corporation shall maintain at the principal place of business or at the designated place,

- (a) minutes of meetings and resolutions of shareholders;
- (b) a register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;

## PARTIE VIII

## LIVRES, DOSSIERS ET RAPPORTS

**125** (1) Les dossiers dont la présente loi requiert la tenue peuvent être conservés soit dans un livre relié ou à feuilles mobiles, soit à l'aide d'un procédé de mise en mémoire de l'information, notamment d'un procédé photographique ou d'un procédé mécanique ou électronique de traitement des données. Ils sont conservés pendant la période prescrite.

Dossiers

(2) La compagnie prend :

Prévention de la falsification des dossiers

- a) les mesures adéquates qui s'imposent en fonction du mode utilisé afin d'empêcher la falsification des inscriptions consignées à ses dossiers;
- b) des mesures afin de communiquer dans un délai normal des renseignements consignés à ses dossiers sous une forme compréhensible et précise, à la personne autorisée par la loi à les consulter.

(3) Sont recevables comme preuve *prima facie* de leur contenu, avant et après la dissolution de la compagnie, les livres visés au paragraphe (1), ou, si les dossiers ne sont pas conservés dans un livre, les renseignements sous la forme sous laquelle ils sont communiqués aux termes de l'alinéa (2) b).

Recevabilité de la preuve d'après les dossiers

(4) Nul ne doit soustraire, retenir ou supprimer les renseignements dont la présente loi ou les règlements exigent l'inscription, ou, sachant que des renseignements sont faux, les inscrire ou aider à leur inscription dans un dossier.

Falsification des renseignements

**126** (1) La compagnie inscrite conserve à son établissement principal ou dans un autre endroit en Ontario que désignent les administrateurs son acte constitutif et son règlement intérieur. Elle y conserve aussi :

Endroit où sont conservés les dossiers

- a) les procès-verbaux des assemblées et les résolutions des actionnaires;
- b) un registre des administrateurs où sont inscrits les noms et adresses personnelles, incluant la rue et le numéro, le cas échéant, de toutes les personnes qui sont ou qui ont été des administrateurs, de même que leurs diverses dates de désignation et de cessation des fonctions;



- (c) a securities register complying with section 127; and
- (d) a copy of the procedures referred to in section 154.

Idem

(2) An extra-provincial corporation that does not have its head office in Ontario shall be deemed to have complied with subsection (1) if it maintains at a place in Ontario designated by the directors a copy of its instrument of incorporation and its by-laws, and a copy of every minute, resolution, record and register referred to in clauses (1) (a), (b) and (c).

Idem

(3) In addition to the records described in subsection (1), a provincial corporation shall maintain in Ontario, and a registered extra-provincial corporation shall maintain in Canada,

- (a) adequate accounting records as required by this Act or the regulations;
- (b) records containing minutes of meetings and resolutions of the directors and every committee thereof;
- (c) a record of all investments held by the corporation; and
- (d) copies of all returns to the Superintendent required by this Act or the regulations.

Idem

(4) In addition to the records described in subsections (1) and (3), a registered corporation shall maintain in Canada,

- (a) a record of all depositors, their names and addresses as far as is known and the sums deposited by such depositors;
- (b) where the corporation is a trust corporation, full and adequate records relating to the fiduciary activities of the corporation.

Securities  
register

**127.—**(1) A provincial corporation shall maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

- (a) the names, alphabetically arranged of persons who,
  - (i) are or have been within six years registered as shareholders of the corporation, the residency of such shareholders, the address including the street and number, if any, of every such person while a holder, and the number and class or series of shares registered in the name of such holder,



- c) un registre des valeurs mobilières conforme à l'article 127;
- d) un exemplaire de la procédure écrite visée à l'article 154.

(2) La compagnie extraprovinciale dont le siège social est situé en dehors de l'Ontario est réputée s'être conformée au paragraphe (1) si elle conserve, dans l'endroit de l'Ontario que désignent les administrateurs, une copie de son acte constitutif, de son règlement intérieur, ainsi que des procès-verbaux, résolutions, dossiers, et registres visés aux alinéas (1) a), b) et c). Idem

(3) Outre les dossiers visés au paragraphe (1), la compagnie provinciale tient en Ontario et la compagnie extraprovinciale inscrite tient au Canada : Idem

- a) des registres comptables adéquats tels qu'exigés par la présente loi ou les règlements;
- b) des dossiers où figurent les procès-verbaux des réunions du conseil d'administration et de ses comités, ainsi que leurs résolutions;
- c) un dossier de tous les placements détenus par la compagnie;
- d) une copie de tous les rapports dont la présente loi ou les règlements exigent le dépôt auprès du surintendant.

(4) Outre les dossiers visés aux paragraphes (1) et (3), la compagnie inscrite tient au Canada : Idem

- a) un dossier de tous les déposants, incluant leurs noms et adresses dans la mesure où ils sont connus, de même que les sommes qu'ils ont déposées;
- b) s'il s'agit d'une compagnie de fiducie, des dossiers adéquats et détaillés relativement aux activités fiduciaires de la compagnie.

**127** (1) La compagnie provinciale tient un registre des valeurs mobilières où sont inscrites les valeurs mobilières nominatives qu'elle a émises, énonçant quant à chaque catégorie ou série : Registre des valeurs mobilières

- a) les noms, par ordre alphabétique, des personnes qui sont ou qui au cours des six dernières années ont été inscrites :

- (ii) are or have been within six years registered as holders of subordinated notes of the corporation, the address including the street and number, if any, of every such person while a holder, and the principal amount of the subordinated notes registered in the name of such holder, or
- (iii) are or have been within six years registered as holders of warrants of the corporation, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and

- (b) the date and particulars of the issue of each security.

Transfer  
register

(2) A provincial corporation shall cause to be kept in Ontario a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out.

Branch  
transfer  
registers

(3) A provincial corporation may maintain branch transfer registers at one or more places in Canada.

Transfer  
agents

**128.** For each class of securities issued by it, a provincial corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities of the corporation or any class or classes thereof.

Valid  
registration

**129.**—(1) Registration of the transfer of a security of a provincial corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

- (i) à titre d'actionnaires, de même que leur résidence, l'adresse de chacune d'elles à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que le nombre et la catégorie ou série d'actions inscrites à leur nom,
  - (ii) à titre de détenteurs de titres subalternes, de même que leur adresse à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que le montant en capital des titres subalternes inscrits à leur nom,
  - (iii) à titre de détenteurs de bons de souscription de la compagnie, de même que leur adresse à cette époque, y compris la rue et le numéro, le cas échéant, ainsi que la catégorie ou la série et le nombre de bons inscrits à leur nom;
- b) la date de même que les détails de l'émission de toutes les valeurs mobilières.

(2) La compagnie provinciale tient un registre des transferts où sont inscrits tous les transferts de valeurs mobilières nominatives qu'elle a émises et où sont énoncés la date et les autres détails relatifs à chacun des transferts.

Registre des transferts

(3) La compagnie provinciale peut tenir des registres locaux de transferts à plus d'un endroit au Canada.

Registres locaux de transferts

**128** La compagnie provinciale peut, à l'égard de chaque catégorie de valeurs mobilières qu'elle émet :

Agents des transferts

- a) confier la tenue du registre des valeurs mobilières et du registre des transferts à un fiduciaire, agent des transferts ou autre agent, et confier la tenue de registres locaux à une ou plusieurs personnes ou agents;
- b) confier la tenue d'un dossier des certificats de valeurs mobilières et des bons de souscription émis à un agent d'inscription, fiduciaire ou autre agent.

Une seule personne peut être nommée aux fins des alinéas a) et b) relativement à toutes catégories de valeurs mobilières ou relativement à une ou plusieurs catégories de celles-ci.

**129** (1) L'inscription de valeurs mobilières au registre des transferts ou au registre local des transferts de la compagnie provinciale constitue une inscription complète et valide à toutes fins.

Inscription valide

Entry in  
register of  
transfers

(2) Particulars of every transfer of securities registered in every branch register of transfers shall be recorded in the register of transfers.

Documents  
not  
required to  
be  
produced

(3) A provincial corporation or a person appointed under section 128 is not required to produce,

- (a) any security certificate or warrant that is not in registered form; or
- (b) any security certificate or warrant that is in registered form after six years,
  - (i) in the case of a share certificate, from the date of its cancellation,
  - (ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or
  - (iii) in the case of a subordinated note, from the date of cancellation of the note.

Open to  
examination

**130.**—(1) The records mentioned in sections 126, 127 and 129 shall, during normal business hours of a corporation, be open to examination by any director.

Records of  
account at  
branch

(2) A registered corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the principal place of business of the corporation or such other place as is authorized under this Part such records as will enable the directors to ascertain the financial position of the corporation.

Copies

**131.** A shareholder of a provincial corporation is entitled upon request and without charge to one copy of the instrument of incorporation and the by-laws and the amendments thereto.

List of  
shareholders

**132.**—(1) Upon payment of a reasonable fee and upon sending to a provincial corporation or its transfer agent the statutory declaration described in subsection (6), any person may require the corporation or its transfer agent to furnish within ten days of receipt by the corporation of the statutory declaration a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.

(2) Les détails de chaque transfert de valeurs mobilières qui figurent aux registres locaux sont inscrits au registre des transferts.

Inscription au registre des transferts

(3) La compagnie provinciale ou la personne nommée en vertu de l'article 128 n'est pas tenue de produire :

Documents non exigés

- a) le certificat d'une valeur mobilière ou le bon de souscription non nominatifs;
- b) le certificat d'une valeur mobilière ou le bon de souscription nominatifs, six ans après :
  - (i) la date de son annulation, dans le cas d'un certificat d'action,
  - (ii) la date du transfert ou celle de l'exercice du droit qu'il représente, selon la première de ces dates, dans le cas d'un bon de souscription,
  - (iii) la date de son annulation, dans le cas du titre subalterne.

**130** (1) Les dossiers visés aux articles 126, 127 et 129 sont accessibles aux administrateurs pour consultation durant les heures de bureau de la compagnie.

Dossiers accessibles pour consultation

(2) La compagnie inscrite peut conserver à tout endroit où elle exerce ses activités, la partie des dossiers comptables qui a trait aux opérations et aux activités commerciales qui se déroulent ou qui sont supervisées à cet endroit, ou qui a trait à l'actif et au passif comptabilisés à cet endroit. Les dossiers qui permettent aux administrateurs de vérifier la situation financière de la compagnie sont cependant conservés à son établissement principal ou à l'autre endroit autorisé aux termes de la présente partie.

Dossiers comptables aux diverses successales

**131** L'actionnaire qui en fait la demande a droit à un exemplaire gratuit de l'acte constitutif, du règlement intérieur, et de leurs modifications.

Exemplaire

**132** (1) Toute personne peut, moyennant le paiement de droits raisonnables et l'envoi à la compagnie provinciale ou à son agent des transferts de la déclaration solennelle visée au paragraphe (6), exiger que ceux-ci, dans les dix jours de la réception de la déclaration solennelle, remettent une liste principale qui énonce les noms, le nombre d'actions de chaque catégorie et série de même que l'adresse de chaque actionnaire tels qu'ils figurent aux dossiers de la compagnie.

Liste des actionnaires



Idem

(2) The list referred to in subsection (1) when furnished shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental  
lists

(3) A person requiring a corporation to supply a list under subsection (1) may, if the person states in the statutory declaration described in subsection (6) that the person requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

Idem

(5) A person requiring a corporation to supply a basic or supplemental list under this section may also require the corporation to include in the list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory  
declaration

(6) The statutory declaration referred to in subsection (1) shall state,

- (a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, holder of a subordinated note or any other person referred to in subsection (1);
- (b) if the applicant is a body corporate, its address for service; and
- (c) that the basic list and any supplemental lists may be used only as permitted under subsection (8).

(2) La liste visée au paragraphe (1) est à jour dans la mesure du possible, eu égard au mode de tenue des registres des valeurs mobilières adopté par la compagnie. Cette mise à jour ne doit pas remonter à plus de dix jours de la remise de la liste. Idem

(3) La personne qui affirme dans la déclaration solennelle visée au paragraphe (6) avoir besoin, outre la liste principale mentionnée au paragraphe (1), de listes supplétives, peut, moyennant le paiement d'un droit raisonnable, en exiger la remise par la compagnie ou son mandataire. Les listes supplétives énoncent, à l'égard de chaque jour ouvrable depuis la mise à jour de la liste principale, les modifications apportées aux noms et adresses des actionnaires et au nombre d'actions détenues par chacun d'eux. Listes  
supplétives

(4) La compagnie ou son mandataire remet la liste supplétive exigée aux termes du paragraphe (3) : Idem

- a) en même temps que la liste principale, si les modifications sont antérieures à la date de la remise;
- b) le jour ouvrable qui suit la date indiquée dans la liste supplétive, si les modifications se sont produites à la date de la remise de la liste principale ou à une date postérieure.

(5) La personne qui exige que la compagnie remette une liste principale ou supplétive aux termes du présent article, peut également exiger que la compagnie fasse figurer sur cette liste les noms et adresses des détenteurs connus d'une option ou d'un droit d'acquérir des actions de la compagnie. Liste des  
détenteurs  
d'options

(6) La déclaration solennelle visée au paragraphe (1) énonce : Déclaration  
solennelle

- a) les nom et adresse, y compris la rue et le numéro, le cas échéant, de l'auteur de la demande de même que son titre d'actionnaire, de détenteur d'un titre subalterne ou autre titre visés au paragraphe (1);
- b) si l'auteur de la demande est une personne morale, le domicile élu;
- c) que la liste principale de même que les listes supplétives ne peuvent être utilisées qu'aux fins énoncées au paragraphe (8).

- Idem (7) If the applicant is a body corporate, the statutory declaration described in subsection (6) shall be made by a director or officer of the body corporate.
- Use of information (8) A list of shareholders obtained under this section shall not be used by any person except in connection with,
- (a) an effort to influence the voting by shareholders of the corporation;
  - (b) an offer to acquire shares of the corporation; or
  - (c) any other matter relating to the affairs of the corporation.
- Maximum fee (9) The fee referred to in subsections (1) and (3) shall not exceed such amount as may be prescribed.
- Trafficking in lists **133.** No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities of a provincial corporation.
- Returns **134.** Every registered corporation at the times prescribed shall provide to the Superintendent such financial or other information as may be prescribed.
- Annual return **135.**—(1) Every registered corporation shall prepare annually for the information of the Superintendent an annual return, in the prescribed form, outlining the financial condition and affairs of the corporation for the fiscal year of the corporation, and the return shall be filed with the Superintendent within ninety days after the end of the period to which it relates.
- Idem (2) The return referred to in subsection (1) shall have attached to it the financial statements for the year to which the annual return relates.
- Idem (3) The return referred to in subsection (1) shall have attached to it a report of the auditor, which report shall be prepared in accordance with the regulations.
- Idem (4) The return referred to in subsection (1) shall be accompanied by a copy of a resolution of the directors showing that the return was approved by them.
- Filing of financial statements **136.** Every registered corporation shall file with the Superintendent a copy of every statement of a financial nature related to the corporation furnished to its shareholders or the

(7) Si l'auteur de la demande est une personne morale, l'un de ses administrateurs ou dirigeants fait la déclaration solennelle visée au paragraphe (6). Idem

(8) La liste des actionnaires obtenue en vertu du présent article ne doit pas être utilisée que dans le cadre : Utilisation de la liste

- a) de tentatives en vue d'influencer le vote des actionnaires de la compagnie;
- b) de l'offre d'acquérir des actions de la compagnie;
- c) de toute autre question concernant les affaires de la compagnie.

(9) Le droit visé aux paragraphes (1) et (3) ne doit pas être supérieur au montant prescrit. Droit maximal

**133** Nul ne doit trafiquer, notamment en les offrant en vente, en les vendant ou en les achetant, des listes ou copies de listes des détenteurs de valeurs mobilières de la compagnie provinciale. Trafic des listes

**134** La compagnie inscrite fournit au surintendant, dans le délai imparti, les renseignements prescrits d'ordre financier ou autre. Rapports

**135** (1) La compagnie inscrite dresse chaque année à l'intention du surintendant un rapport, selon la formule prescrite, qui énonce la situation et les affaires financières de la compagnie pour son exercice. Ce rapport est déposé auprès du surintendant dans les quatre-vingt-dix jours qui suivent la fin de la période visée. Rapport annuel

(2) Le rapport visé au paragraphe (1) est accompagné des états financiers de l'exercice visé par le rapport annuel. Idem

(3) Le rapport visé au paragraphe (1) est accompagné du rapport du vérificateur, préparé conformément aux règlements. Idem

(4) Le rapport visé au paragraphe (1) est accompagné aussi d'une copie de la résolution qui confirme son approbation par les administrateurs. Idem

**136** La compagnie inscrite dépose auprès du surintendant une copie de chaque état d'ordre financier concernant la compagnie et destiné aux actionnaires ou déposé auprès de la Commission des valeurs mobilières de l'Ontario ou de l'admi- Dépôt des états financiers

Ontario Securities Commission or any similar authority in another jurisdiction within five days after the distribution of the statement to the shareholders or its filing with the Commission or similar authority.

Filing of  
corporate  
changes

**137.** Every registered corporation shall file with the Superintendent,

- (a) copies of all applications and supporting documents of any nature made under such laws, as may be prescribed, of Canada or of any province or territory of Canada for any change in its instrument of incorporation or registration status and shall also file with the Superintendent a copy of any approval or refusal of such application within seven days of filing or receipt, as the case may be; and
- (b) copies of any changes made in its instrument of incorporation, registration or licence under the laws of Canada or of any province or territory of Canada.

Provision of  
information

**138.**—(1) Every registered corporation shall provide to The Trust Companies Association of Canada Inc. such financial and statistical information as may be prescribed.

Publication

(2) Where The Trust Companies Association of Canada Inc. receives information under subsection (1), it shall report to the public such financial and statistical information as may be prescribed at such periods as may be prescribed.

Public file

**139.**—(1) The Superintendent shall maintain a file on each registered corporation which shall contain such information as may be prescribed.

Idem

(2) Upon payment of the prescribed fee, any person, during usual office hours, may examine the registers referred to in section 30 and the file referred to in subsection (1) and may take extracts therefrom or obtain copies thereof.

## PART IX

### CONFLICT OF INTEREST

Power to  
designate  
person as  
restricted  
party

**140.**—(1) For the purposes of this Part, the Superintendent may designate,

- (a) any person to be a restricted party of a registered corporation if the Superintendent is of the opinion that,



nistration semblable d'une autre compétence législative, dans les cinq jours de sa distribution aux actionnaires ou de son dépôt auprès de la Commission ou de l'administration semblable.

**137** La compagnie inscrite dépose auprès du surintendant :

Dépôt des modifications aux statuts constitutifs

- a) une copie des demandes de modification à son acte constitutif ou à son statut d'inscription de même que des pièces justificatives de toute nature qui s'y rattachent, présentées en vertu des lois du Canada, d'une province ou d'un territoire du Canada qui sont prescrites. Elle dépose aussi, dans les sept jours du dépôt ou de la réception, selon le cas, une copie de l'approbation ou du rejet des demandes;
- b) une copie de chaque modification apportée soit à son acte constitutif, soit à son inscription ou à son permis, en vertu des lois du Canada, d'une province ou d'un territoire du Canada.

**138** (1) La compagnie inscrite communique à L'Association des compagnies de fiducie du Canada Inc. les renseignements prescrits d'ordre financier et statistique.

Communication de renseignements

(2) Si cette association reçoit des renseignements aux termes du paragraphe (1), elle rend publics, aux intervalles prescrits, les renseignements prescrits d'ordre financier et statistique.

Publicité

**139** (1) Le surintendant tient, relativement à chaque compagnie inscrite, un dossier qui renferme les renseignements prescrits.

Dossiers publics

(2) Une personne peut, moyennant le paiement des droits prescrits, consulter durant les heures de bureau les registres visés à l'article 30 et le dossier visé au paragraphe (1) et en tirer des extraits ou en obtenir des copies.

Idem

## PARTIE IX

### CONFLITS D'INTÉRÊTS

**140** (1) Pour l'application de la présente partie, le surintendant peut, à l'égard d'une compagnie inscrite, désigner en tant que personne assujettie à des restrictions :

Désignation d'une personne assujettie à des restrictions

- a) une personne, s'il est d'avis :

(i) the person is acting in concert with a restricted party of the corporation to participate in or enter into an investment or other transaction with the corporation that would be prohibited or restricted if entered into with the corporation by the restricted party, or

(ii) there exists between the person and the corporation such an interest or relationship as might reasonably be expected to affect the exercise of the best judgment of the corporation with respect to an investment or other transaction; or

(b) any shareholder of a registered corporation or of an affiliate of a registered corporation to be a restricted party of the corporation if the Superintendent is of the opinion that the shareholder is acting in concert with one or more other shareholders of the corporation or of an affiliate to control directly or indirectly 10 per cent or more of any class of shares of the registered corporation.

Revocation  
of  
designation

(2) On the application of the restricted party or the registered corporation, the Superintendent may revoke a designation made under subsection (1).

Hearing

(3) Before making a designation or refusing to revoke a designation made under subsection (1), the Superintendent shall give the person whom he or she proposes to designate or has designated and the registered corporation an opportunity to be heard.

Prohibitions,  
restricted  
parties

**141.—**(1) Except as provided in this Part,

(a) no registered corporation or subsidiary of a registered corporation shall directly or indirectly purchase from or lend to a restricted party of the corporation or enter any other transaction with a restricted party of the corporation; and

(b) no restricted party of a registered corporation shall directly or indirectly purchase from or lend to the corporation or any subsidiary of the corporation or enter any other transaction with the corporation or any subsidiary of the corporation.

Idem,  
directors

(2) Except as provided in clause 142 (1) (a), no registered corporation or subsidiary of a registered corporation shall

(i) que celle-ci, de concert avec une personne assujettie à des restrictions à l'égard de la compagnie, participe ou souscrit à des placements ou autres opérations avec la compagnie qui seraient interdits ou restreints s'ils étaient conclus avec la compagnie par cette deuxième personne,

(ii) qu'il existe entre la personne et la compagnie un intérêt ou des rapports vraisemblablement susceptibles d'empêcher celle-ci d'évaluer de façon objective le bien-fondé d'un placement ou d'une autre opération;

b) l'actionnaire de la compagnie inscrite ou du membre du même groupe, si le surintendant est d'avis que cet actionnaire, de concert avec un ou plusieurs autres actionnaires de la compagnie ou d'un membre du même groupe, cherche à exercer directement ou indirectement le contrôle sur 10 pour cent ou plus d'une catégorie d'actions de la compagnie.

(2) À la demande de la personne assujettie à des restrictions ou de la compagnie inscrite, le surintendant peut révoquer une désignation faite en vertu du paragraphe (1). Révocation  
de la  
désignation

(3) Avant de faire une désignation ou de refuser de révoquer une désignation faite en vertu du paragraphe (1), le surintendant donne à la personne qu'il se propose de désigner ou qu'il a déjà désignée, ainsi qu'à la compagnie inscrite, la possibilité de se faire entendre. Audience

**141** (1) Sauf disposition contraire de la présente partie : Interdictions

a) nulle compagnie inscrite ou sa filiale ne doit, directement ou indirectement, effectuer d'achats auprès de la personne assujettie à des restrictions à son égard, lui consentir un prêt ou conclure avec elle une autre opération;

b) nulle personne assujettie à des restrictions à l'égard de la compagnie inscrite ne doit, directement ou indirectement, effectuer d'achats auprès de la compagnie ou de sa filiale, lui consentir un prêt ou conclure avec elle une autre opération.

(2) Sous réserve de l'alinéa 142 (1) a), nulle compagnie inscrite ou sa filiale ne doit sciemment effectuer de placements Idem. admi-  
nistrateurs

knowingly invest by way of purchase of or loans on the security of real estate that at any time in the period of thirty-six months preceding the date of the advance of any funds by the corporation or its subsidiary was owned by a director or the spouse or child of the director or any relative of the director or spouse who has the same home as the director.

Exception

(3) This Part does not apply so as to prevent the payment of directors' fees of the registered corporation or of a subsidiary of the registered corporation if the fees have been approved by the shareholders of the registered corporation.

Permitted  
transactions,  
board  
approval

**142.**—(1) Subject to the prior approval of the board of directors of the registered corporation, a registered corporation or a subsidiary of a registered corporation may,

- (a) make a loan to any director, officer or employee of the corporation, the spouse or any child of a director or officer of the corporation or any relative of a director or officer of the corporation or of the spouse of a director or officer of the corporation on the security of the residence of the person to whom the loan is made if,
  - (i) the loan qualifies as an investment under clause 162 (1) (a),
  - (ii) the amount of the loan does not exceed 0.5 per cent of the capital base of the corporation, and
  - (iii) in the case of a director who is not an employee or officer of the corporation or his or her spouse or child, the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;
- (b) make a personal loan to any officer or employee of the corporation, the spouse or any child of an officer of the corporation or any relative of an officer of the corporation or of the spouse of an officer of the corporation, if the loan qualifies as an investment under clause 162 (2) (b);
- (c) enter into written contracts with any restricted party for the provision of management services to or by the corporation or subsidiary if it is reasonable that the corporation or the subsidiary obtain or supply the services, and so long as,

au moyen d'achats des biens immeubles qui, au cours de la période de trente-six mois qui a précédé toute avance faite par la compagnie ou sa filiale, étaient la propriété de l'administrateur, de son conjoint, de l'un de ses enfants, ou d'un parent de l'administrateur ou de son conjoint qui habitent avec l'administrateur, ni au moyen de prêts garantis par des sûretés sur de tels biens.

(3) La présente partie n'a pas pour effet d'empêcher l'attribution aux administrateurs de la compagnie inscrite ou de sa filiale des jetons de présence approuvés par les actionnaires de la compagnie inscrite. Exception

**142** (1) Sous réserve de l'approbation préalable du conseil d'administration de la compagnie inscrite, celle-ci ou sa filiale peut : Opérations permises, approbation du conseil d'administration

- a) consentir un prêt, garanti par une sûreté sur l'immeuble qu'habite l'emprunteur, à l'administrateur, au dirigeant ou à l'employé de la compagnie, au conjoint ou à l'enfant de l'administrateur ou du dirigeant de la compagnie, ou au parent de l'administrateur ou du dirigeant de la compagnie, ou du conjoint de ces derniers, pourvu que les conditions suivantes soient remplies :
  - (i) le prêt est un placement admissible aux termes de l'alinéa 162 (1) a),
  - (ii) le montant du prêt ne dépasse pas 0,5 pour cent de l'apport en capital de la compagnie,
  - (iii) les conditions de prêt offertes par celle-ci à l'administrateur qui n'est ni son employé ou son dirigeant, ni le conjoint ou l'enfant de ces derniers, ne sont pas moins onéreuses que les conditions qu'elle pose dans le cours normal de ses affaires;
- b) consentir un prêt personnel au dirigeant ou à l'employé de la compagnie, au conjoint ou à l'enfant d'un dirigeant, ou au parent d'un dirigeant ou du conjoint de ce dernier, pourvu que le prêt soit un placement admissible aux termes de l'alinéa 162 (2) b);
- c) conclure avec une personne assujettie à des restrictions un contrat par écrit ayant pour objet la prestation de services de gestion par la compagnie ou sa filiale ou pour leur compte, s'il est raisonnable que la compagnie ou sa filiale fournisse ou obtienne ces services, à condition que :



- (i) the consideration is at or exceeds competitive and fair rates where the services are provided by the corporation or the subsidiary and is otherwise reasonable for the services provided, and
  - (ii) the consideration does not exceed competitive and fair rates where the services are provided to the corporation or the subsidiary and is otherwise not unreasonable for the services provided;
- (d) enter into a written lease of real estate or personal property with any restricted party for the use of the corporation or the subsidiary in carrying out its business, so long as,
  - (i) the rent does not exceed fair rental value,
  - (ii) the term of the lease and all renewals does not exceed ten years, and
  - (iii) the terms of the lease are otherwise competitive and not unreasonable;
- (e) enter into written contracts with any restricted party for pension and benefit plans and other reasonable commitments incidental to the employment of officers and employees of the corporation or the subsidiary;
- (f) enter into employment contracts with officers or future officers of the corporation or the subsidiary;
- (g) enter into written contracts with any restricted party for the purchase of goods or services, other than management services, used or required by the corporation or the subsidiary in carrying on its business, so long as the price paid for such goods or services is competitive and at market value or fair rates, supported by appropriate documentation of such value or rates; and
- (h) enter into such investments or other transactions as may be prescribed.

- (i) d'une part, la contrepartie reçue en retour des services dispensés par la compagnie ou sa filiale soit égale ou supérieure aux tarifs normaux et concurrentiels et s'avère raisonnable compte tenu des services offerts,
- (ii) d'autre part, la contrepartie versée en retour des services dispensés à la compagnie ou à sa filiale ne soit pas supérieure aux tarifs normaux et concurrentiels et ne s'avère pas excessive, compte tenu des services offerts;
- d) conclure par écrit avec une personne assujettie à des restrictions des baux mobiliers ou immobiliers portant sur des biens destinés à servir à la compagnie ou à sa filiale aux fins de leurs activités commerciales, pourvu que les conditions suivantes soient réunies :
  - (i) le montant du loyer ne dépasse pas la valeur locative normale,
  - (ii) la durée du bail et de ses reconductions ne dépasse pas dix ans,
  - (iii) les conditions du bail sont concurrentielles et relativement raisonnables;
- e) conclure par écrit avec une personne assujettie à des restrictions des contrats écrits relatifs à des régimes de retraite et d'avantages sociaux et aux autres engagements normaux reliés à l'acquisition des services de ses dirigeants et employés ainsi que de ceux de sa filiale;
- f) conclure avec ses dirigeants actuels ou futurs ou ceux de sa filiale des contrats d'acquisition de leurs services;
- g) conclure avec une personne assujettie à des restrictions des contrats écrits d'acquisition de biens ou de services nécessaires à la compagnie ou à sa filiale dans le cadre de l'exercice de ses activités commerciales, à l'exclusion de services de gestion. Le prix versé en contrepartie doit toutefois être concurrentiel et représenter le prix du marché ou la juste valeur, chiffres à l'appui;
- h) souscrire à des placements et autres opérations qui sont prescrits.

Loans to  
employees,  
board  
approval not  
required

(2) Notwithstanding clause (1) (a) or (b), if permitted by the regulations, a registered corporation may make a loan to an employee of the corporation who is not a director or officer of the corporation or to his or her spouse or child without obtaining the approval of the board of directors if the amount of the loan does not exceed such amount as may be prescribed and there is compliance with subclauses (1) (a) (i) and (ii) or clause (1) (b), as the case may be.

Other  
permitted  
transactions,  
board  
approval  
not required

(3) A registered corporation or a subsidiary of a registered corporation, without the approval of the board of directors of the registered corporation, may enter into,

- (a) employment contracts with persons who are not directors or officers of the corporation or the subsidiary;
- (b) transactions with a restricted party which involve nominal or immaterial expenditures by the corporation or the subsidiary;
- (c) transactions with a restricted party for the sale of goods or the provision of services normally provided to the public by the corporation or the subsidiary in the ordinary course of business so long as the prices and rates charged by the corporation or subsidiary are competitive and at fair rates; and
- (d) such investments or other transactions as may be prescribed.

Approvals  
committee

(4) The board of directors of a registered corporation may delegate its power to approve transactions as required by this section to an approvals committee consisting of not fewer than five to be appointed from among their number, a majority of whom shall be outside directors.

Idem

(5) An approvals committee shall not approve a transaction unless at least five members, a majority of whom are outside directors, are present and voting.

Onus of  
proof

**143.** The onus is upon the restricted party and the registered corporation or its subsidiary to demonstrate,

- (a) for the purpose of subclause 142 (1) (a) (iii), that the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;

(2) Malgré les alinéas (1) a) ou b), si les règlements le permettent, la compagnie inscrite peut consentir un prêt à son employé qui n'est ni son administrateur, ni son dirigeant, ou au conjoint ou à l'enfant de cet employé, sans l'approbation du conseil d'administration, pourvu que le montant du prêt ne dépasse pas le montant prescrit et que les sous-alinéas (1) a) (i) et (ii) ou l'alinéa (1) b), selon le cas, soient respectés.

Prêts aux employés sans l'approbation du conseil d'administration

(3) La compagnie inscrite ou sa filiale peuvent, sans l'approbation du conseil d'administration de la compagnie inscrite, être partie :

Autres opérations permises sans l'approbation du conseil d'administration

- a) à des contrats d'embauchage passés avec des personnes qui ne sont ni ses administrateurs, ni ses dirigeants ou ceux de sa filiale;
- b) avec une personne assujettie à des restrictions, à des opérations qui n'occasionnent à la compagnie ou à sa filiale que des frais minimes ou symboliques;
- c) avec une personne assujettie à des restrictions, à des opérations relatives à la vente de biens ou à la prestation de services normalement offerts au public par la compagnie ou sa filiale dans le cours normal de leurs affaires, pourvu que les prix et tarifs qu'elle exige en retour soient justes et concurrentiels;
- d) à des placements et autres opérations qui sont prescrits.

(4) Le conseil d'administration de la compagnie inscrite peut déléguer, à un comité d'approbation qui se compose d'au moins cinq administrateurs, son pouvoir d'approuver des opérations comme l'exige le présent article. La majorité des membres du comité est formée d'administrateurs externes.

Comité d'approbation

(5) Le comité d'approbation ne doit pas approuver une opération à moins que cinq membres, dont la majorité est formée d'administrateurs externes, ne soient présents et ne votent.

Idem

**143** Le fardeau de démontrer les faits suivants revient à la personne assujettie à des restrictions, ainsi qu'à la compagnie inscrite ou à sa filiale :

Fardeau de la preuve

- a) pour l'application du sous-alinéa 142 (1) a) (iii), que les conditions de prêt ne sont pas moins onéreuses que les conditions que pose la compagnie dans le cours normal de ses affaires;

- (b) for the purpose of clause 142 (1) (c), that it is reasonable that the services be obtained or supplied;
- (c) for the purpose of subclause 142 (1) (c) (i), that the consideration is at or exceeds competitive and fair rates;
- (d) for the purpose of subclause 142 (1) (c) (ii), that the consideration does not exceed competitive and fair rates;
- (e) for the purpose of clause 142 (1) (d), that the rent does not exceed fair rental value and the terms of the lease are otherwise competitive and not unreasonable;
- (f) for the purpose of clause 142 (1) (g), that the price paid is competitive and at market value or fair rates;
- (g) for the purpose of clause 142 (3) (b), that expenditures are nominal or immaterial; and
- (h) for the purpose of clause 142 (3) (c), that services are normally provided to the public in the ordinary course of business and that the prices and rates are competitive and at fair rates.

Trusts and  
estates

**144.—**(1) A registered trust corporation shall not participate in, or enter into, any investment or other transaction with its subsidiaries or restricted parties using funds, except deposits, held by the corporation as a fiduciary.

Idem

(2) Except as provided in this section, a registered trust corporation shall not invest funds held by the registered corporation as a fiduciary in securities of the corporation or its subsidiaries or restricted parties.

Exception

(3) A registered trust corporation may act as a fiduciary of one or more trusts or estates that owns securities of the corporation or its subsidiaries or restricted parties if the securities were acquired before the corporation assumed responsibility as a fiduciary.



- b) pour l'application de l'alinéa 142 (1) c), qu'il est raisonnable d'obtenir ou de fournir les services;
- c) pour l'application du sous-alinéa 142 (1) c) (i), que la contrepartie est égale ou supérieure aux tarifs normaux et concurrentiels;
- d) pour l'application du sous-alinéa 142 (1) c) (ii), que la contrepartie n'est pas supérieure aux tarifs normaux et concurrentiels;
- e) pour l'application de l'alinéa 142 (1) d), que le montant du loyer ne dépasse pas la valeur locative normale et que les conditions du bail sont concurrentielles et relativement raisonnables;
- f) pour l'application de l'alinéa 142 (1) g), que le prix est concurrentiel et représente le prix du marché ou la juste valeur;
- g) pour l'application de l'alinéa 142 (3) b), que des frais sont minimes ou symboliques;
- h) pour l'application de l'alinéa 142 (3) c), que des services sont normalement offerts au public dans le cours normal des affaires et que les prix et tarifs sont justes et concurrentiels.

**144** (1) La compagnie de fiducie inscrite ne doit souscrire ni participer à aucun placement ou autre opération, avec sa filiale ou avec une personne assujettie à des restrictions à son égard, en utilisant les fonds qu'elle détient à titre de fiduciaire, sauf ceux détenus à titre de dépôts.

Fiducies et successions

(2) Sauf disposition contraire du présent article, la compagnie de fiducie inscrite ne doit pas investir dans ses propres valeurs mobilières ou dans celles de ses filiales ou de personnes assujetties à des restrictions à son égard les fonds qu'elle détient à titre de fiduciaire.

Idem

(3) La compagnie de fiducie inscrite peut représenter plusieurs fiducies ou successions qui sont titulaires de valeurs mobilières de la compagnie, de ses filiales ou de personnes assujetties à des restrictions à son égard, si l'acquisition de ces valeurs mobilières a eu lieu avant que la compagnie n'ait assumé son rôle de fiduciaire.

Exception

Approval of  
board

(4) Where a registered trust corporation acts as a fiduciary of one or more trusts or estates holding securities of the corporation, the securities shall not be sold or voted or an offer for the securities refused except with the approval of the board of directors and the reasons for such actions shall be entered in the minutes of the board of directors.

Annual  
report

(5) Each year, the board of directors shall approve a report on the securities of the registered corporation and its subsidiaries and restricted parties held by the corporation as fiduciary and the reasons for their retention or sale.

Limitation

(6) Nothing in this section authorizes a registered trust corporation to perform any act as a fiduciary which is otherwise prohibited.

Saving

(7) Nothing in this section prevents a registered trust corporation from,

(a) fulfilling a specific direction or permission of a court or of an instrument creating a fiduciary duty that the corporation should or may purchase or sell securities of the corporation or its subsidiaries or restricted parties or participate in, or enter into, any investment or other transaction with its subsidiaries or restricted parties but a general power to invest in the discretion of the fiduciary shall not be considered to be a specific direction or permission for the purposes of this clause;

(b) investing funds held by it as a fiduciary in the securities of its restricted parties for which there is a published market, as defined in section 88 of the *Securities Act*;

(c) participating in or entering into an investment that a co-fiduciary or the co-fiduciaries of the corporation can direct to be made without the agreement of the corporation and that the co-fiduciary or co-fiduciaries have directed to be made.

R.S.O. 1980,  
c. 466

Exemption

**145.**—(1) Upon the application of a registered corporation filed with the Superintendent, the Lieutenant Governor in Council may consent to the registered corporation making or entering into any investment or other transaction set out in this Part, with a restricted party if, in the opinion of the Lieutenant Governor in Council, the consent is necessary to the

(4) Si la compagnie de fiducie inscrite agit à titre de fiduciaire d'une ou de plusieurs fiducies ou successions qui détiennent des valeurs mobilières de la compagnie, les valeurs mobilières ne doivent pas être aliénées, sauf avec l'approbation du conseil d'administration. De même, il ne doit pas être refusé d'offrir à leur sujet ni exercé le droit de vote qui s'y rattache, sauf avec cette approbation. Les motifs de ces mesures sont consignés aux procès-verbaux des réunions du conseil d'administration.

Approbation  
du conseil  
d'administra-  
tion

(5) Chaque année, le conseil d'administration donne son approbation à un rapport relatif aux valeurs mobilières de la compagnie inscrite, de ses filiales et de personnes assujetties à des restrictions à son égard, détenues en fiducie par la compagnie, ainsi qu'aux motifs qui l'ont déterminé à les conserver ou à les aliéner.

Rapport  
annuel

(6) Le présent article n'a pas pour effet de permettre à la compagnie de fiducie inscrite d'accomplir, à titre de représentant fiduciaire, un acte autrement prohibé.

Restriction

(7) Le présent article n'a pas pour objet d'empêcher une compagnie de fiducie inscrite :

Réserve

- a) de se conformer à une directive ou à une autorisation précise d'un tribunal ou d'un acte créant une obligation fiduciaire en vertu de laquelle celle-ci devrait ou pourrait acquérir ou aliéner ses valeurs mobilières ou celles de ses filiales ou de personnes assujetties à des restrictions à son égard, ou participer ou souscrire à un placement ou autre opération avec ses filiales ou avec des personnes assujetties à des restrictions à son égard; toutefois, le mandat général de placement confié au représentant fiduciaire ne s'interprète pas comme étant une directive ou une autorisation précise pour l'application du présent alinéa;
- b) d'investir les fonds qu'elle détient à titre de fiduciaire dans les valeurs mobilières de personnes assujetties à des restrictions à son égard, s'il existe pour ces valeurs un marché officiel au sens de l'article 88 de la *Loi sur les valeurs mobilières*;
- c) de participer ou de souscrire à un placement qu'un ou plusieurs cofiduciaires de la compagnie peuvent ordonner de faire sans l'accord de la compagnie et que ce ou ces cofiduciaires ont ordonné de faire.

L.R.O. 1980,  
chap. 466

**145** (1) À la demande de la compagnie inscrite déposée auprès du surintendant, le lieutenant-gouverneur en conseil peut consentir à ce qu'elle effectue un placement ou une autre

Dispense

well-being of the registered corporation and the consent may be subject to such terms and conditions as are set out in the consent.

Idem

(2) Subsection (1) does not apply so as to permit the giving of consent for an investment or other transaction that is prohibited by section 144.

Disclosure of  
interest

**146.**—(1) A restricted party who is a party to an investment or other transaction with a registered corporation or a subsidiary of a registered corporation or to a proposed investment or other transaction with the corporation or the subsidiary for which the approval of the board of directors of the corporation is required, whether under this Act or otherwise, shall disclose in writing to the corporation the nature of the restricted party's interest.

Disclosure of  
cross-  
directorship

(2) A director or officer of a registered corporation, with respect to an investment or other transaction with the corporation or a subsidiary of the corporation or with respect to a proposed investment or other transaction with the corporation or the subsidiary, shall disclose the nature of the interest if,

- (a) he or she is a director or an officer of a body corporate that is a party to any investment or other transaction of the corporation or the subsidiary or a proposed investment or other transaction of the corporation or subsidiary; or
- (b) he or she holds 10 per cent or more of the shares of a body corporate described in clause (a).

Disclosure  
by director

(3) The disclosure required by subsection (1) or (2) shall be entered in the minutes of the board of directors and shall be made, in the case of a director,

- (a) at the meeting at which a proposed investment or other transaction is first considered;
- (b) if the director was not then interested in a proposed investment or other transaction, at the first meeting after becoming interested;
- (c) if the director becomes interested after an investment or other transaction is entered into, at the first meeting after becoming interested; or
- (d) if a person who is interested in an investment or other transaction later becomes a director, at the first meeting after becoming a director.

opération avec une personne assujettie à des restrictions visés à la présente partie, si de son avis ce consentement est nécessaire à la bonne marche de la compagnie inscrite. Le consentement peut être assorti de conditions qui y sont énoncées.

(2) Le paragraphe (1) n'a pas pour effet de permettre qu'il soit consenti à un placement ou à une autre opération qui sont prohibés par l'article 144. Idem

**146** (1) Doit divulguer par écrit à la compagnie la nature de son intérêt, la personne assujettie à des restrictions partie à un placement ou à une autre opération avec la compagnie inscrite ou sa filiale, ou à un projet de placement ou d'autre opération avec ces dernières qui exigent l'approbation préalable du conseil d'administration, soit aux termes de la présente loi, soit autrement. Divulgateion  
d'intérêt

(2) L'administrateur ou le dirigeant d'une compagnie inscrite divulgue la nature de son intérêt à l'égard d'un placement ou d'une autre opération avec la compagnie ou sa filiale ou d'un projet de placement ou d'autre opération avec ces dernières, dans les cas suivants : Administra-  
teur de  
plusieurs  
compagnies

- a) lorsqu'il est administrateur ou dirigeant d'une personne morale partie au placement ou à l'autre opération ou au projet de placement ou d'autre opération;
- b) lorsqu'il détient 10 pour cent ou plus des actions de la personne morale visée à l'alinéa a).

(3) La divulgation exigée par les paragraphes (1) ou (2) est consignée au procès-verbal des réunions du conseil d'administration. Elle se fait, dans le cas d'un administrateur, lors de la première réunion : Divulgateion  
par l'adminis-  
trateur

- a) au cours de laquelle le projet de placement ou d'autre opération est étudiée;
- b) qui suit l'acquisition par l'administrateur d'un intérêt, inexistant jusqu'alors, dans le projet de placement ou d'autre opération;
- c) qui suit l'acquisition par celui-ci d'un intérêt dans un placement ou une autre opération déjà en cours;
- d) qui suit sa nomination au poste d'administrateur alors que celui-ci possède déjà un intérêt dans un placement ou une autre opération.



Disclosure  
by others

(4) The disclosure required by subsection (1) or (2) shall be made, in the case of a restricted party who is not a director,

- (a) forthwith after becoming aware that the investment or other transaction or proposed investment or other transaction is to be considered or has been considered at a meeting of directors;
- (b) if the restricted party becomes interested after an investment or other transaction is entered into, forthwith after becoming interested; or
- (c) if a person who is interested in an investment or other transaction later becomes a restricted party, forthwith after becoming a restricted party.

Director not  
to vote

(5) A director required by subsection (1) or (2) to make a disclosure shall not take part in the discussion or vote on any resolution to approve an investment or transaction in relation to which disclosure is required under subsection (1) or (2) and the director shall not be present at any meeting of the board while it is dealing with the matter.

Director  
not to use  
influence

(6) A director referred to in subsection (5) shall not attempt in any way to influence the voting on any resolution to approve an investment or other transaction.

Procedures

**147.**—(1) Every registered corporation shall establish and its board of directors shall approve written review and approval procedures to be followed by the corporation to ensure compliance with this Part, and the board of directors shall review the procedures so established at least once each year.

Idem

(2) The procedures referred to in subsection (1) shall be developed by the investment committee of the board of directors and shall be reviewed at least twice each year by the investment committee.

Voidable  
contract

**148.** Where a restricted party, a registered corporation or any subsidiary of a registered corporation fails to comply with this Part, and where an investment or other transaction which is prohibited by this Part takes place, the corporation or the Superintendent may apply to the High Court of Justice for an order setting aside the investment or other transaction and directing that the restricted party account to the registered corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit, including an order for compensation for the

(4) La personne assujettie à des restrictions qui n'est pas administrateur fait sans délai la divulgation exigée par les paragraphes (1) ou (2) :

Divulgation  
par d'autres

- a) quand elle apprend que le placement ou l'autre opération ou le projet de placement ou d'autre opération a été ou sera examiné lors d'une réunion des administrateurs;
- b) quand elle acquiert un intérêt dans un placement ou une autre opération déjà en cours;
- c) quand elle devient une personne assujettie à des restrictions lorsqu'elle possède déjà un intérêt dans un placement ou une autre opération.

(5) L'administrateur tenu à la divulgation aux termes des paragraphes (1) ou (2) ne doit pas participer aux discussions ou au vote sur la résolution présentée pour faire approuver le placement ou l'opération qui en font l'objet. Il ne doit pas non plus assister à la réunion du conseil d'administration pendant qu'il est traité de la question.

L'administra-  
teur ne vote  
pas

(6) L'administrateur visé au paragraphe (5) ne doit d'aucune façon tenter d'influencer le vote sur la résolution présentée pour faire approuver un placement ou une autre opération.

L'administra-  
teur ne peut  
user  
d'influence

**147** (1) Afin de se conformer à la présente partie, la compagnie inscrite établit et observe une procédure écrite d'examen et d'approbation, que son conseil d'administration approuve. Le conseil d'administration réexamine cette procédure au moins une fois l'an.

Procédure

(2) Le comité de placements du conseil d'administration élabore la procédure visée au paragraphe (1) et la réexamine au moins deux fois l'an.

Idem

**148** La compagnie ou le surintendant peut, par voie de requête, demander à la Haute Cour de justice de rendre une ordonnance annulant le placement ou l'autre opération effectués, contrairement à la présente partie, par la personne assujettie à des restrictions, la compagnie inscrite ou sa filiale, et enjoignant à la personne assujettie à des restrictions de rendre compte à la compagnie inscrite de tout bénéfice qu'elle en a tiré. Le tribunal peut rendre cette ordonnance ou toute autre ordonnance qu'il juge pertinente, notamment une ordonnance portant sur le versement d'une indemnité pour la perte et les dommages subis par la compagnie, ainsi que le versement de

Contrat sus-  
ceptible  
d'annulation

loss or damage suffered by the corporation and punitive or exemplary damages from the restricted party.

Derivative  
action

**149.**—(1) Where an investment or other transaction that is prohibited under this Part takes place, a registered corporation or the Superintendent may apply to the High Court of Justice for an order that each person who participated in or facilitated such investment or other transaction made in contravention of this Part pay to the corporation on a joint and several basis,

- (a) the damages suffered;
- (b) the face value of the investment; or
- (c) the amount expended by the corporation in the transaction.

Saving

(2) Subsection (1) does not apply to a person who is not a director, unless the person knew or ought reasonably to have known that the investment or other transaction was made in contravention of this Part.

Reporting by  
auditor

**150.** An auditor shall promptly report to the board of directors and the Superintendent any breach of any provision of this Part of which he or she is aware or of which he or she is made aware under section 151 and, if the board of directors does not act to rectify the breach within a reasonable period of time, the auditor shall promptly report the failure to rectify to the Superintendent.

Reporting by  
others

**151.**—(1) Any person undertaking professional services for a registered corporation who, in providing the professional services, becomes aware of a breach of the provisions of this Part shall promptly report the breach to the board of directors and the auditor of the corporation unless he or she has already reported the breach under section 150.

Professional  
advice

(2) No person undertaking professional services for a registered corporation shall advise the registered corporation or perform services for the corporation in an investment or other transaction in or to which the person is a party or has a direct or indirect beneficial interest in the subject-matter of the investment or transaction.

Solicitor-  
client  
privilege

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

dommages-intérêts punitifs ou exemplaires par la personne assujettie à des restrictions.

**149** (1) La compagnie inscrite ou le surintendant peut, par voie de requête, demander à la Haute Cour de justice une ordonnance portant que chacune des personnes qui a souscrit au placement ou à l'autre opération effectués contrairement à la présente partie ou qui en a facilité la réalisation verse à la compagnie, à titre solidaire, l'une des sommes suivantes :

Action  
oblique

- a) le montant des dommages subis;
- b) la valeur nominale du placement;
- c) la somme versée par la compagnie en vue de l'opération.

(2) Le paragraphe (1) ne s'applique pas à la personne qui n'est pas administrateur, sauf si celle-ci savait ou aurait normalement dû savoir que le placement ou l'autre opération étaient effectués contrairement à la présente partie.

Exception

**150** Le vérificateur signale promptement au conseil d'administration et au surintendant toute contravention à une disposition de la présente partie dont il a connaissance ou qui est portée à sa connaissance aux termes de l'article 151. Advenant le défaut du conseil d'administration de corriger la situation dans un délai raisonnable, le vérificateur fait promptement part au surintendant de ce défaut.

Rapport par  
le vérificateur

**151** (1) La personne qui, dans le cadre des services professionnels qu'elle fournit à la compagnie inscrite, prend connaissance d'une contravention à la présente partie, la signale promptement au conseil d'administration ainsi qu'au vérificateur de la compagnie, à moins qu'elle ne l'ait déjà signalée aux termes de l'article 150.

Rapport par  
d'autres

(2) La personne qui fournit des services professionnels à la compagnie inscrite s'abstient de dispenser à cette dernière des conseils ou services ayant trait à un placement ou à une autre opération auquel elle est elle-même partie ou sur l'objet duquel elle a un droit à titre de bénéficiaire, soit directement, soit indirectement.

Conseils  
d'ordre  
professionnel

(3) Le présent article ne porte pas atteinte au secret professionnel qui lie l'avocat à son client.

Secret profes-  
sionnel de  
l'avocat



No liability

**152.** A person who in good faith makes a report under subsection 151 (1) shall not be liable in any civil action arising therefrom.

## PART X

### BUSINESS AND INVESTMENTS

Application  
of ss. 154-172

**153.** Sections 154 to 172 do not apply to funds, except deposits, held by a registered corporation as a fiduciary.

Prudent  
investment  
standards

**154.—**(1) Every registered corporation shall adhere to prudent investment standards in making investment decisions and in managing its total investments.

Idem

(2) For the purposes of this Act, prudent investment standards are those which, in the overall context of an investment portfolio, a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments, without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

Procedures

(3) Every registered corporation shall establish written procedures to ensure that prudent investment standards are applied by the corporation in making investment decisions and in managing the total investments of the corporation.

Development  
of  
procedures

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least twice each year by the investment committee.

Idem

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

Approval by  
board

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary.

Deposits,  
loan  
corporations

**155.—**(1) A registered provincial loan corporation and any other registered loan corporation that has capacity to do so may, in a debtor and creditor relationship for the purposes of investment, receive money,

(a) repayable on demand or after notice; or



**152** La personne qui de bonne foi signale une contravention aux termes du paragraphe 151 (1) ne peut pas être tenue responsable dans toute instance civile qui en résulte.

Absence de responsabilité

## PARTIE X

### ACTIVITÉS COMMERCIALES ET PLACEMENTS

**153** Les articles 154 à 172 ne s'appliquent pas aux fonds qu'une compagnie inscrite détient à titre fiduciaire, à l'exception des dépôts.

Champ d'application des articles 154 à 172

**154** (1) Dans ses décisions quant aux placements et dans la gestion de l'ensemble de ses placements, la compagnie inscrite observe des normes de placements sûrs.

Normes de placements sûrs

(2) Pour l'application de la présente loi, les normes de placements sûrs sont celles qu'observerait en ce qui concerne le portefeuille pris dans son ensemble, la personne normalement prudente en faisant des placements pour le compte d'un mandant avec lequel elle entretiendrait un rapport fiduciaire à des fins de placements, qui ne comporteraient pas de risques indus de perte ou de dévaluation et qui donneraient la perspective raisonnable d'un rendement acceptable ou d'une hausse de valeur.

Idem

(3) La compagnie inscrite établit une procédure écrite qui assure la mise en application de normes de placements sûrs dans ses décisions quant aux placements et dans la gestion de l'ensemble de ses placements.

Procédure

(4) Le comité de placements du conseil d'administration de la compagnie élabore la procédure visée au paragraphe (3) et la réexamine au moins deux fois l'an.

Élaboration de la procédure

(5) Le comité de placements présente au conseil d'administration un rapport concernant le réexamen visé au paragraphe (4) et lui fait ses recommandations, le cas échéant, relativement à la procédure visée au paragraphe (3).

Idem

(6) La procédure visée au paragraphe (3) est subordonnée à l'approbation du conseil d'administration. Ce dernier, sur une recommandation du comité de placements, réexamine la procédure et y apporte les modifications qui s'imposent.

Approbation du conseil d'administration

**155** (1) La compagnie de prêt provinciale inscrite et toute autre compagnie de prêt inscrite qui a capacité à cette fin peuvent, dans le cadre d'un rapport de créancier à débiteur, existant à des fins de placement, recevoir des sommes d'argent :

Dépôts, compagnies de prêt

- a) remboursables sur demande ou sur préavis;

(b) repayable upon the expiry of a fixed term,

and the corporation may issue debentures or other evidences of indebtedness in respect thereof, appropriate to the debtor and creditor relationship created thereby.

Deposits,  
trust  
corporations

(2) A registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, for the purpose of investment, receive money,

(a) repayable upon demand or after notice; or

(b) repayable upon the expiry of a fixed term,

and the corporation may issue investment certificates or other evidences of the money received, appropriate to the trust relationship created thereby.

Idem

(3) Money received by a trust corporation under subsection (2) shall be deemed to be held by it in trust for its depositors and it shall be deemed to guarantee the repayment thereof.

Idem

(4) Notwithstanding subsection (3), a trust corporation may retain the interest and profit resulting from the investment of money received by it under subsection (2) in excess of the amount of interest payable to its depositors in respect thereof.

Idem

(5) Every trust corporation receiving money as authorized by subsection (2) shall earmark and set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof and, for the purposes of this subsection, "cash" includes moneys on deposit and "securities" includes investments authorized under sections 162 to 166 and 170.

Idem

(6) An investment certificate or other evidence of money received issued by a trust corporation shall indicate in a clearly visible manner that it is guaranteed only as against the assets of the corporation earmarked and set aside under subsection (5).

Deposit  
insurance

**156.—**(1) No registered corporation shall exercise the powers mentioned in section 155 unless it is a member of the Canada Deposit Insurance Corporation or its deposits are insured by some other public agency approved by the Superintendent to the maximum amounts permitted by the agency.

Idem

(2) A provincial corporation, with the approval of the Superintendent, may borrow money from the Canada Deposit Insurance Corporation or other similar public agencies

- b) remboursables à échéance.

La compagnie peut aussi émettre des débentures ou autres titres de créance appropriés au rapport de créancier à débiteur qui les lie en l'espèce.

(2) La compagnie de fiducie provinciale inscrite et toute autre compagnie de fiducie inscrite qui a capacité à cette fin peuvent, à des fins de placement, recevoir des sommes d'argent :

Dépôts, com-  
pagnies de  
fiducie

- a) remboursables sur demande ou sur préavis;  
b) remboursables à échéance.

La compagnie peut aussi émettre des certificats de placement ou autres attestations des sommes ainsi reçues et qui sont appropriés au rapport fiduciaire qui les lie en l'espèce.

(3) Les sommes d'argent reçues par une compagnie de fiducie en vertu du paragraphe (2) sont réputées détenues en fiducie pour le compte des déposants et la compagnie est réputée garantir leur remboursement.

Idem

(4) Malgré le paragraphe (3), la compagnie de fiducie peut toucher la partie des intérêts et revenus tirés du placement des sommes d'argent reçues en vertu du paragraphe (2) qui excède les intérêts payables aux déposants à l'égard de ces sommes.

Idem

(5) La compagnie de fiducie qui reçoit des sommes d'argent en vertu du paragraphe (2) met à part soit des valeurs mobilières, soit de la monnaie et des valeurs mobilières, d'un montant égal au total des sommes reçues. Pour l'application du présent paragraphe, «monnaie» s'entend en outre des sommes d'argent confiées à titre de dépôt et «valeurs mobilières» s'entend également des placements autorisés par les articles 162 à 166 et en vertu de l'article 170.

Idem

(6) Le certificat de placement ou l'autre attestation des sommes reçues délivrés par la compagnie de fiducie indiquent clairement qu'ils sont garantis par les seuls biens de la compagnie mis à part aux termes du paragraphe (5).

Idem

**156** (1) Nulle compagnie inscrite ne doit exercer les pouvoirs visés à l'article 155, sauf si elle est membre de la Société d'assurance-dépôts du Canada ou que ses dépôts sont assurés, par un autre organisme gouvernemental approuvé par le surintendant, jusqu'aux montants maximaux permis par cet organisme.

Assurance-  
dépôt

(2) La compagnie provinciale peut, avec l'approbation du surintendant, contracter des emprunts auprès de la Société

Idem

approved by the Superintendent and, for such purposes, the corporation may mortgage thereto the cash and securities earmarked and set aside under section 155.

Borrowing  
multiples,  
limits

**157.**—(1) Subject to subsections (2), (3) and (4), the total amount,

- (a) received as deposits and otherwise borrowed by a registered loan corporation; and
- (b) received as deposits and borrowed by a registered trust corporation,

shall not exceed, at any time, an amount equal to ten times its capital base.

Exclusions  
from  
calculation

(2) Amounts borrowed by a registered corporation by way of subordinated notes and by way of mortgages on real estate owned by the corporation shall not be included in a determination of a total amount under subsection (1).

Increase in  
borrowing  
multiple

(3) On the application of a registered corporation, the Superintendent, by order and subject to such terms and conditions as may be set out in the order, may increase the total amount that may be borrowed or received by the corporation to an amount equal to such multiplier in excess of ten times but not exceeding twenty-five times its capital base as may be set out in the order and subsections (1) and (2) shall be deemed to apply to such increased amount, substituting the new multiplier for “ten” in subsection (1).

Borrowing  
over limit

(4) A registered corporation may exceed, at any time, the limit on its borrowing multiple as set out in subsection (1) or as set out in an order under subsection (3) if the board of directors has approved, by a resolution passed on an annual basis, the exceeding of the limit and so long as the amount by which the limit is exceeded is invested in a manner prescribed by the regulations.

Copy of  
special  
resolution

(5) No order shall be made under subsection (3) unless the application of the corporation is accompanied by a certified copy of a special resolution of the corporation supporting the increase requested under subsection (3).

Duty of  
Superin-  
tendent

(6) At least once each year, the Superintendent shall review the borrowing multiple authorized for each corporation to determine if the borrowing multiple is appropriate.



d'assurance-dépôts du Canada ou d'un autre organisme gouvernemental semblable approuvé par le surintendant. La compagnie peut à cette fin grever d'une hypothèque mobilière la monnaie et les valeurs mobilières mises à part aux termes de l'article 155.

**157** (1) Sous réserve des paragraphes (2), (3) et (4), la somme totale :

Limitation  
des multipli-  
cateurs  
d'emprunts

- a) reçue à titre de dépôts et autrement empruntée par la compagnie de prêt inscrite;
- b) reçue à titre de dépôts et empruntée par la compagnie de fiducie inscrite,

ne doit jamais excéder un montant égal à dix fois l'apport en capital de cette compagnie.

(2) Sont exclues de la somme totale visée au paragraphe (1) les sommes empruntées par la compagnie inscrite par voie d'émission de titres subalternes et par voie d'hypothèques grevant ses propres biens immobiliers.

Montants à  
exclure

(3) À la requête d'une compagnie inscrite, le surintendant peut, par ordonnance et sous réserve des conditions qu'il y fixe, porter la somme totale que la compagnie peut emprunter ou recevoir à une somme précisée dans l'ordonnance et qui excède dix fois, mais n'excède pas vingt-cinq fois, son apport en capital. Les paragraphes (1) et (2) s'appliquent à cette somme majorée, le nouveau multiplicateur étant substitué au mot «dix» au paragraphe (1).

Majoration  
du multiplia-  
teur  
d'emprunts

(4) La compagnie inscrite peut dépasser la limite du multiplicateur d'emprunt énoncée au paragraphe (1) ou fixée dans l'ordonnance prise en vertu du paragraphe (3), si le conseil d'administration a approuvé cette mesure au moyen d'une résolution, valable pour une période d'un an. L'excédent doit toutefois faire l'objet d'un placement selon le mode prescrit aux règlements.

Emprunt au-  
delà de la  
limite permise

(5) Il ne doit pas être rendu d'ordonnance en vertu du paragraphe (3) que si la requête de la compagnie est accompagnée d'une copie certifiée conforme d'une résolution spéciale adoptée à l'appui de la majoration demandée aux termes de ce paragraphe.

Copie de la  
résolution  
spéciale

(6) Au moins une fois l'an, le multiplicateur d'emprunt autorisé pour chaque compagnie fait l'objet d'un réexamen de la part du surintendant, qui en vérifie la justesse.

Obligation du  
surintendant



Subordinated  
notes

**158.**—(1) A registered corporation may borrow money by way of the issue of notes having a denomination of at least \$100,000.

Idem

(2) A note issued under this section shall be known as a subordinated note and the following provisions apply to every such note:

1. A subordinated note is not a deposit of the issuing corporation and is not insured by the Canada Deposit Insurance Corporation or any similar public agency.
2. In the event of the insolvency or winding up of the corporation, the indebtedness evidenced by each subordinated note ranks equally with the indebtedness evidenced by all other subordinated notes of the corporation and is subordinated in right of payment to all other indebtedness of the corporation.
3. Every subordinated note shall be evidenced by a certificate in a form approved for the corporation by the Superintendent and containing a statement of the terms set out in paragraphs 1 and 2 and such other information as the Superintendent, in approving the form, may require.
4. A subordinated note shall not be issued by a registered corporation except on application to its secretary.

Idem

(3) No registered corporation or person acting on its behalf, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation, shall refer to the note otherwise than as a subordinated note and the registered corporation or person, as the case may be, shall indicate clearly therein that the subordinated note is not a deposit that is insured by the Canada Deposit Insurance Corporation or other similar public agency.

Idem

(4) A registered corporation shall not issue a subordinated note if, after the issue of the note, the amount of the outstanding subordinate notes of the corporation would exceed the amount obtained by subtracting its outstanding subordinated notes and the subordinate note or notes it proposes to issue from its capital base.

Pledging for  
liquidity  
reasons

**159.**—(1) A registered corporation may pledge any of its own assets as security for a debt obligation of the corporation

**158** (1) La compagnie inscrite peut emprunter des sommes d'argent par voie d'émission de titres d'une valeur minimale de 100 000 \$.

Titres  
subalternes

(2) Le titre émis en vertu du présent article porte l'appellation de «titre subalterne» et les dispositions suivantes s'y appliquent :

Idem

1. Celui-ci ne constitue pas un dépôt de la compagnie émettrice et ne fait l'objet d'aucune protection d'assurance de la Société d'assurance-dépôts du Canada ou d'un organisme gouvernemental semblable.
2. Dans le cas d'insolvabilité ou de liquidation de la compagnie, toutes les créances attestées par des titres subalternes viennent au même rang et, dans l'ordre de collocation, prennent rang après toutes les autres dettes de la compagnie.
3. Le titre subalterne est attesté par un certificat rédigé dans la forme approuvée pour la compagnie par le surintendant. Les conditions qui figurent aux dispositions 1 et 2 y sont énoncées ainsi que les autres renseignements que le surintendant peut exiger avant d'approuver la forme.
4. La compagnie inscrite ne peut émettre de titre subalterne qu'à la suite d'une demande déposée auprès de son secrétaire.

(3) Dans toute circulaire d'offre, annonce publicitaire, correspondance ou documentation se rapportant à un titre subalterne émis ou à émettre par la compagnie, la compagnie inscrite ou la personne qui agit pour son compte ne doit pas faire mention du titre subalterne autrement que sous cette appellation. La compagnie ou la personne y indiquent clairement que le titre subalterne ne constitue pas un dépôt faisant l'objet de la protection d'assurance de la Société d'assurance-dépôts du Canada ou d'un autre organisme gouvernemental semblable.

Idem

(4) La compagnie inscrite ne doit pas émettre de titres subalternes si, à la suite de cette émission, la somme totale de ses titres subalternes en circulation dépasserait le résultat obtenu en soustrayant du montant de son apport en capital, la somme des titres subalternes déjà en circulation et du ou des titres subalternes dont elle projette l'émission.

Idem

**159** (1) La compagnie inscrite peut nantir ses propres biens pour garantir un titre de créance, si le titre est émis relativement à un emprunt fait afin de combler les besoins de

Nantissement  
à des fins de  
liquidité

if the debt obligation is issued in respect of money borrowed to enable the corporation to meet short term requirements for liquid funds arising from its operations and if the total debt obligation of the corporation in relation to which assets are so pledged does not exceed 50 per cent of the capital base.

Exception

(2) Subsection (1) does not apply so as to prevent a pledge of assets to the Government of Canada with respect to the sale of Canada Savings Bonds or such other transactions as may be named in the regulations.

Notice to  
Superin-  
tendent

(3) A corporation pledging any asset under subsection (1) shall promptly notify the Superintendent in writing of the amount so secured.

Borrowing  
without  
security

(4) A registered trust corporation shall not borrow money, except from a bank or a registered corporation, unless,

(a) it is borrowing by way of subordinated notes; or

(b) it is borrowing as authorized by subsection (1).

Receiver  
prohibited

(5) Any agreement under which a creditor of a registered corporation is authorized by reason of the failure of the corporation to make payment in respect of a debt obligation to appoint a receiver or acquire control of the corporation or of any asset of the corporation, other than an asset pledged under subsection (1) or (2), is void.

Pledge to  
restricted  
party  
prohibited  
Liquidity

(6) A registered corporation shall not pledge any of its assets to a restricted party of the corporation.

**160.** Every registered corporation, at all times, shall maintain liquid assets in such form and amounts and in such manner as is prescribed.

Restriction  
on investing  
and pledging  
total assets

**161.**—(1) Except as provided in this Act, no registered corporation shall directly or indirectly invest or pledge any part of its total assets.

Shares of  
financial  
institution

(2) No registered corporation shall purchase directly or indirectly,

(a) shares or subordinated notes of any other corporation except under section 28 or clause 169 (1) (d) or (e); or

(b) shares of a bank for which there is no published market as defined in section 88 of the *Securities Act*.

liquidité à court terme qu'engendrent ses opérations et si la dette obligataire totale de la compagnie à l'origine de ce nantissement n'est pas supérieure à 50 pour cent de l'apport en capital.

(2) Le paragraphe (1) n'a pas pour effet d'empêcher le nantissement de biens en faveur du gouvernement du Canada relativement à la vente d'obligations d'épargne du Canada ou à d'autres opérations mentionnées aux règlements.

Exception

(3) La compagnie qui effectue le nantissement d'un bien en vertu du paragraphe (1) communique immédiatement par écrit au surintendant le montant du nantissement.

Avis au  
surintendant

(4) La compagnie de fiducie inscrite ne doit pas emprunter de sommes d'argent, sauf d'une banque ou d'une compagnie inscrite, à moins d'effectuer l'emprunt :

Prêts non  
assortis d'une  
sûreté

- a) par voie d'émission de titres subalternes;
- b) selon le mode autorisé au paragraphe (1).

(5) Est nulle la convention aux termes de laquelle le créancier de la compagnie inscrite, suivant le défaut de celle-ci d'honorer une dette constatée par titre de créance, est autorisé à nommer un séquestre ou à effectuer la mainmise sur celle-ci ou sur ses biens, sauf le bien nanti en vertu des paragraphes (1) ou (2).

Nomination  
d'un séquestre  
interdite

(6) La compagnie inscrite ne doit nantir aucun de ses biens en faveur d'une personne assujettie à des restrictions à l'égard de la compagnie.

Nantissement  
interdit

**160** La compagnie inscrite maintient en tout temps des biens liquides sous la forme, de la valeur et de la manière prescrites.

Liquidité

**161** (1) La compagnie inscrite ne doit effectuer, directement ou indirectement, aucun placement ni nantissement d'un élément quelconque de son actif total, sauf en conformité avec la présente loi.

Restrictions  
au placement  
ou au nantissement  
des éléments de  
l'actif total

(2) La compagnie inscrite ne doit pas, directement ou indirectement, acquérir :

Actions  
d'institutions  
financières

- a) les actions ou les titres subalternes d'une autre compagnie, sauf en vertu de l'article 28 ou des alinéas 169 (1) d) ou e);
- b) des actions d'une banque pour lesquelles il n'existe pas de marché officiel au sens de l'article 88 de la *Loi sur les valeurs mobilières*.

L.R.O. 1980,  
chap. 466



Eligible  
investments

**162.**—(1) A registered corporation may invest by way of purchase of or loans on the security of,

mortgages

- (a) mortgages upon improved real estate in Canada so long as the amount paid for or advanced on any mortgage, together with the amount of indebtedness under any mortgage, on the real estate ranking equally with or prior to the mortgage, in which the purchase or loan is made, does not exceed the lending value of the real estate to which the mortgage relates unless,

R.S.C. 1970,  
c. N-10

- (i) the loan for which the mortgage is security is approved or insured under the *National Housing Act* (Canada), or

R.S.C. 1970,  
cc. I-15, I-16

R.S.O. 1980,  
c. 218

- (ii) the excess is guaranteed or insured through an agency of the Government of Canada or of a province or territory of Canada or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or similar legislation of any province or territory of Canada;

debentures,  
bonds

- (b) debentures, bonds or other evidences of indebtedness,

- (i) of or guaranteed by the Government of Canada or of a province or territory of Canada,

- (ii) of or guaranteed by a foreign country or state forming part of such foreign country where the interest on the debt obligations of such foreign country or state has been paid regularly when due for the previous ten years,

- (iii) of any municipality in Canada or school board in Canada or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province or territory of Canada on property in such province or territory and collectable by or through the municipality or school board for the jurisdiction in which the property is situated,



**162** (1) La compagnie inscrite peut effectuer des placements au moyen de l'achat des biens suivants, ou au moyen de prêts garantis par ceux-ci :

Placements  
admissibles

- a) des hypothèques ou des prêts garantis au moyen d'une hypothèque portant sur des biens immeubles améliorés situés au Canada, à condition que la somme payée en contrepartie ou avancée sur hypothèque, majorée du montant de la dette reliée à toute autre hypothèque de même rang ou qui prime l'hypothèque visée, ne dépasse pas la valeur hypothécable de l'immeuble grevé, sauf dans les cas suivants :
- (i) le prêt garanti par l'hypothèque est un prêt approuvé ou assuré aux termes de la *Loi nationale sur l'habitation* (Canada),
- (ii) l'excédent est garanti ou assuré par un organisme du gouvernement du Canada ou d'une province ou d'un territoire du Canada, ou en vertu d'une police d'assurance-hypothèque émise par une compagnie d'assurance titulaire d'un permis ou enregistrée en vertu de la *Loi sur les compagnies d'assurance canadiennes et britanniques* (Canada), la *Loi sur les compagnies d'assurance étrangères* (Canada), la *Loi sur les assurances* ou une loi semblable d'une province ou d'un territoire du Canada;
- b) des débetures, des obligations ou d'autres titres de créance :
- (i) émis ou garantis par le gouvernement du Canada ou d'une province ou d'un territoire du Canada,
- (ii) émis ou garantis par un pays étranger ou un État qui en fait partie, pourvu que ceux-ci aient, de façon soutenue au cours des dix dernières années, versé les intérêts sur leurs titres de créance au fur et à mesure de leur échéance,
- (iii) émis par une municipalité du Canada ou un conseil scolaire du Canada ou garantis soit par une municipalité canadienne, soit au moyen d'impôts ou de taxes levés sur des biens conformément aux lois de la province ou du territoire où ils sont situés et recouvrables par la municipalité ou le conseil scolaire du lieu où ils sont situés, ou par leur truchement,

hypothèques

S.R.C. 1970,  
chap. N-10

S.R.C. 1970,  
chap. I-15,  
I-16  
L.R.O. 1980,  
chap. 218

débetures,  
obligations

(iv) of any company that are secured by a mortgage to a trust corporation in Canada either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes in clause (a) or subclause (i), (ii), (iii) or (v),

(v) of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the debentures, bonds or other evidences of indebtedness outstanding and to meet the principal amount of the debentures, bonds or other evidences of indebtedness upon maturity;

idem

(c) securities of or guaranteed by any company if, at the date of the investment, the company has been in *bona fide* operation for at least five years;

life insurance  
policy

(d) mortgages or assignments of life insurance policies but only by way of loan and only if at the date of the loan such policy has an ascertained cash surrender value admitted by the insurer at least equal to the amount of the loan;

deposits in  
banks

(e) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank; and

deposits in  
registered  
corporation  
or credit  
union

(f) deposits in a registered corporation or in a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*.

R.S.O. 1980,  
c. 102

Government  
guaranteed  
loans,  
personal  
loans,  
commercial  
lending

(2) A registered corporation may invest,

(a) by lending money by way of guaranteed loans under and in accordance with any of the following for which it has been designated as a bank or lender,

R.S.C. 1970,  
c. S-17

(i) the *Canada Student Loans Act*,

R.S.C. 1970,  
c. F-3

(ii) the *Farm Improvement Loans Act (Canada)*,

- (iv) émis par une corporation et garantis au moyen d'une hypothèque consentie à une compagnie de fiducie au Canada, soit seule, soit en commun avec un autre fiduciaire et qui porte sur des biens immeubles améliorés ou d'autres biens de celle-ci dans les catégories visées à l'alinéa a) ou aux sous-alinéas (i), (ii), (iii) ou (v),

(v) émis par une corporation et garantis au moyen de la cession en faveur d'un fiduciaire de paiements que le gouvernement du Canada a convenu d'effectuer, si ces paiements suffisent à acquitter les intérêts au fur et à mesure qu'ils sont échus, sur les débentures, obligations ou autres titres de créance en circulation, ainsi que le montant en principal de ces titres à leur échéance;

- c) des valeurs mobilières émises ou garanties par une corporation si celle-ci, à la date du placement, est exploitée effectivement depuis au moins cinq ans; idem

- d) des hypothèques ou des cessions de polices d'assurance-vie, seulement au moyen de prêts et si à la date du prêt ces polices ont une valeur de rachat précise et reconnue par l'assureur comme étant au moins égale au montant du prêt; polices d'assurance-vie

- e) des dépôts bancaires ou des récépissés, des billets ou des certificats de dépôts, acceptations ou autres effets semblables délivrés ou visés par une banque; dépôts auprès d'une banque

- f) des dépôts auprès d'une compagnie inscrite ou d'une caisse populaire ou *credit union* constitués ou enregistrés en vertu de la *Loi sur les caisses populaires et les credit unions*. dépôts auprès d'une compagnie inscrite ou d'une caisse populaire  
L.R.O. 1980, chap. 102

(2) La compagnie inscrite peut effectuer des placements :

- a) au moyen de prêts de sommes d'argent à titre de prêts garantis conformément à l'une des lois suivantes, en vertu de laquelle la compagnie a été désignée en tant que banque ou institution prêteuse : Prêts garantis par le gouvernement, prêts personnels et commerciaux

(i) la *Loi canadienne sur les prêts aux étudiants*, S.R.C. 1970, chap. S-17

(ii) la *Loi sur les prêts destinés aux améliorations agricoles* (Canada), S.R.C. 1970, chap. F-3

R.S.C. 1970,  
c. F-22

(iii) the *Fisheries Improvement Loans Act* (Canada),

R.S.C. 1970,  
c. S-10

(iv) the *Small Business Loans Act* (Canada),

(v) any statute of Canada or of a province of Canada designated by the regulations,

(vi) any ordinance of a territory of Canada designated by the regulations;

(b) by making personal loans to any individual, with or without security, not exceeding those amounts as may be prescribed; and

(c) by making loans for business or commercial purposes not authorized by any other provision of this Act payable on demand or in less than one year to companies, partnerships, sole proprietorships and joint ventures.

Leases and  
conditional  
sale  
agreements

(3) A registered corporation may invest by way of purchase of personal property and the lease of it to a lessee or by way of loan to a lessee or conditional purchaser where the evidence of the investment is a lease of personal property or an instrument similar to a lease of personal property or a conditional sales contract but only if the investment is for a fixed term and,

(a) the lessee or conditional purchaser is the Government of Canada or of a province or territory of Canada or any agency thereof or any municipality in Canada;

(b) the lessee or conditional purchaser is a company, partnership, sole proprietorship or joint venture; or

(c) the lessee or conditional purchaser is an individual and the balance payable under the lease or instrument does not exceed such amount as may be prescribed.

Restrictions  
on personal  
loans,  
commercial  
lending,  
leases and  
conditional  
sales  
agreements

(4) A registered corporation shall not make investments,

(a) by way of a loan under clause (1) (b), (c), (e) or (f) if the amount of the loan exceeds at the date of the loan the market value of the security for the loan;

(iii) la *Loi sur les prêts aidant aux opérations de pêche* (Canada), S.R.C. 1970,  
chap. F-22

(iv) la *Loi sur les prêts aux petites entreprises* (Canada), S.R.C. 1970,  
chap. S-10

(v) une loi du Canada ou d'une province du Canada, désignée par les règlements,

(vi) une ordonnance d'un territoire du Canada, désignée par les règlements;

b) au moyen de prêts personnels consentis à des particuliers, assortis ou non de sûretés, dont les montants ne dépassent pas les maximums prescrits;

c) au moyen de prêts qui sont consentis à des corporations, des sociétés, des entreprises personnelles ou communes à des fins commerciales et qui ne sont pas déjà autorisés par une autre disposition de la présente loi, ces prêts étant remboursables sur demande ou en moins d'un an.

(3) La compagnie inscrite peut effectuer un placement au moyen de l'achat de biens meubles et de leur location à un locataire, ou au moyen d'un prêt à un locataire ou à un acquéreur sous condition, si le titre qui constate ce placement est un bail mobilier, un acte juridique semblable ou un contrat de vente conditionnelle, pourvu que le placement soit d'une durée déterminée et :

Baux et  
contrats de vente  
conditionnelle

a) que le locataire ou l'acquéreur sous condition soit le gouvernement du Canada ou d'une province ou d'un territoire du Canada, l'un de leurs organismes ou une municipalité canadienne;

b) que le locataire ou l'acquéreur sous condition soit une corporation, une société ou une entreprise personnelle ou commune;

c) que le locataire ou l'acquéreur sous condition soit une personne physique et que le solde qui reste à payer aux termes du bail ou de l'acte ne dépasse pas le montant prescrit.

(4) La compagnie inscrite ne doit pas effectuer de placements :

Restrictions  
aux prêts per-  
sonnels et  
commerciaux,  
aux baux et  
contrats de  
vente condi-  
tionnelle

a) au moyen de prêts aux termes des alinéas (1) b), c), e) ou f), si le montant du prêt est supérieur, à la date du prêt, à la valeur marchande de la sûreté;



- (b) under clause (2) (b) or (c) or clause (3) (b) or (c) unless,
  - (i) it is authorized by its registration to make such class of investments, and
  - (ii) it complies with the terms, conditions and restrictions, if any, imposed on the corporation in its registration with respect to such class of investments;
- (c) under clause (2) (b) or clause (3) (c) unless the aggregate total of such investments is 20 per cent or less of the total assets of the corporation or such lower percentage as is authorized by its registration;
- (d) under clause (2) (c) or clause (3) (b) unless,
  - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
  - (ii) the combined total of the investments under those two clauses is 20 per cent or less of the total assets of the corporation or such lower percentage as is authorized by its registration.

Real estate  
for the  
production  
of income

**163.**—(1) Subject to subsection (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada for the production of income.

Idem

(2) The total book value on a gross basis of all investments in real estate under this section and section 164, whether by a corporation or by a subsidiary of the corporation, shall not exceed 10 per cent of the total assets of the corporation and not more than 1 per cent of the total assets of the corporation may be invested in any one parcel of real estate purchased under this section.

Real estate  
for own use

**164.**—(1) Subject to subsection 163 (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada that is or is to be occupied by the corporation for its own use.

Idem

(2) For the purposes of this section, real estate purchased by a subsidiary of a registered corporation that is occupied and used by the subsidiary for either or both its own purposes and the purposes of the registered corporation shall be deemed to be real estate purchased by the registered corporation under this section.

b) aux termes des alinéas (2) b) ou c) ou des alinéas (3) b) ou c), à moins que :

(i) d'une part, les conditions rattachées à son inscription n'autorisent les placements de cette catégorie,

(ii) d'autre part, la compagnie ne se conforme aux conditions et restrictions propres à cette catégorie de placements et rattachées à l'inscription de la compagnie, le cas échéant;

c) aux termes des alinéas (2) b) ou (3) c), à moins que la somme totale de ces placements ne représente que 20 pour cent ou moins de l'actif total de la compagnie ou le pourcentage plus faible qu'autorisent les conditions rattachées à l'inscription de la compagnie;

d) aux termes des alinéas (2) c) ou (3) b), à moins que :

(i) d'une part, l'apport en capital de la compagnie ne soit de 15 000 000 \$ ou plus,

(ii) d'autre part, la somme totale des placements effectués aux termes de ces deux alinéas ne représente que 20 pour cent ou moins de l'actif total de la compagnie ou le pourcentage plus faible qu'autorisent les conditions rattachées à l'inscription de la compagnie.

**163** (1) Sous réserve du paragraphe (2), la compagnie inscrite peut effectuer des placements au moyen de l'achat de biens immeubles améliorés situés au Canada, afin de produire un revenu.

Les biens  
immeubles  
productifs de  
revenus

(2) La valeur comptable totale de tous les placements immobiliers aux termes du présent article et de l'article 164, calculée sur une base brute, qu'ils soient effectués par une compagnie ou par ses filiales, ne doit pas dépasser 10 pour cent de l'actif total de la compagnie. Cette dernière ne doit pas en outre affecter plus de 1 pour cent de la valeur de son actif total à l'achat aux termes du présent article d'un bien immeuble en particulier.

Idem

**164** (1) Sous réserve du paragraphe 163 (2), la compagnie inscrite peut effectuer des placements au moyen de l'achat de biens immobiliers améliorés situés au Canada qu'elle occupe ou occupera elle-même.

Biens immeu-  
bles destinés  
à son propre  
usage

(2) Pour l'application du présent article, le bien immobilier dont la filiale d'une compagnie inscrite a fait l'acquisition et

Idem

Exclusion of  
foreclosed  
real estate  
from  
determination  
of  
total book  
value

**165.**—(1) The book value of real estate that has been mortgaged to a corporation or any of its subsidiaries and that has been acquired by the corporation or the subsidiary to protect its investment and of real estate that has been conveyed to it or any of its subsidiaries in satisfaction of debts previously contracted in the course of the corporation's business or that of the subsidiary need not be included in determining total book value of real estate for the purposes of subsection 163 (2).

Sale of  
foreclosed  
real estate

(2) Where real estate has been mortgaged to a corporation or any of its subsidiaries and the real estate has been acquired by the corporation or the subsidiary to protect its investment, the corporation or subsidiary may sell the real estate and take back a mortgage of it even though the mortgage does not satisfy the requirements of clause 162 (1) (a).

"Open  
basket"

**166.**—(1) A registered corporation may make investments not authorized by section 162, 163 or 164 if the investment is not prohibited under any other provision of this Act so long as the total book value of investments made under this section and held by the corporation does not exceed 5 per cent of the total assets of the corporation.

Idem

(2) Subsection (1) does not apply so as to,

- (a) enlarge the authority conferred by this Act to invest in mortgages, or to lend on the security of real estate; or
- (b) affect the limit of 10 per cent of the total assets that may be invested in real estate under section 163.

Idem

(3) Where a corporation has received the approval of the Superintendent to make investments under clause 162 (2) (b) or (c) or clause 162 (3) (b), the corporation shall not make any such investments under subsection (1).

Investment  
limits

**167.**—(1) Notwithstanding any other provision of this Act, except paragraph 4 of subsection 28 (1), a corporation shall maintain at all times at least 50 per cent of its total assets, excluding assets of subsidiaries, in,

- (a) bonds, debentures or other evidences of indebtedness,

qu'elle occupe et utilise à ses propres fins ou aux fins de la compagnie inscrite, ou à ces deux fins, est réputé acquis par la compagnie inscrite aux termes du présent article.

**165** (1) Il n'est pas nécessaire d'inclure, aux fins d'établir la valeur comptable des biens immeubles pour l'application du paragraphe 163 (2), les biens immeubles hypothéqués en faveur d'une compagnie ou de l'une de ses filiales dont la compagnie ou la filiale a fait l'acquisition pour la protection de ses placements. Il en est de même des biens immeubles dont il a été fait cession à la compagnie ou à sa filiale en paiement de dettes préalablement contractées dans le cours de ses affaires.

Exclusion de la valeur comptable des biens immeubles qui font l'objet d'une forclusion

(2) Si un bien immeuble a été hypothéqué en faveur d'une compagnie ou de l'une de ses filiales et que la compagnie ou la filiale en a fait l'acquisition pour la protection de ses placements, elle peut vendre le bien immeuble moyennant la création d'une hypothèque en sa faveur, même si cette hypothèque ne satisfait pas aux exigences de l'alinéa 162 (1) a).

Vente des biens immeubles qui font l'objet d'une forclusion

**166** (1) La compagnie inscrite peut effectuer des placements qui ne sont pas autorisés par les articles 162, 163 ou 164, pourvu que le placement ne soit pas prohibé aux termes d'une autre disposition de la présente loi et que la valeur comptable des placements effectués aux termes du présent article et que possède la compagnie inscrite ne soit pas supérieure à 5 pour cent de son actif total.

Placements divers

(2) Le paragraphe (1) n'a pas pour effet :

Idem

- a) d'étendre le pouvoir accordé par la présente loi d'effectuer des placements hypothécaires ou de consentir des prêts garantis par des biens immeubles;
- b) de modifier la limite de 10 pour cent de l'actif total qui peut être placé dans des biens immeubles en vertu de l'article 163.

(3) La compagnie qui a reçu l'approbation du surintendant en vue d'effectuer des placements en vertu des alinéas 162 (2) b) ou c) ou (3) b) ne doit pas effectuer de tels placements en vertu du paragraphe (1).

Idem

**167** (1) Malgré toute autre disposition de la présente loi, à l'exception de la disposition 4 du paragraphe 28 (1), au moins 50 pour cent de l'actif total de la compagnie, à l'exclusion de l'actif de ses filiales, se compose :

Nature des placements

- a) d'obligations, de débentures ou d'autres titres de créance :

- (i) of or guaranteed by the Government of Canada or any province or territory of Canada,
- (ii) of any municipality or school board in Canada, or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province or territory of Canada on property in such province or territory and collectable by or through the municipality or school board for the jurisdiction in which such property is situated;
- (b) first mortgages, upon real estate in Canada;
- (c) debt instruments of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make and that are sufficient to meet the interest as it falls due and to meet the principal amount upon maturity;
- (d) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank;
- (e) deposits in a registered corporation;
- (f) debt instruments of banks;
- (g) such other investments as may be prescribed; or
- (h) any combination of cash and the investments referred to in clauses (a) to (g).

Third and  
subsequent  
mortgages

(2) Investments by a registered corporation in third and subsequent mortgages shall be limited to 2 per cent of the total assets of the corporation.

Idem

(3) For the purposes of subsection (2), an investment in a third or subsequent mortgage by a subsidiary of a corporation shall be deemed to be an investment in the mortgage by the corporation.

Securities

(4) A registered corporation shall not make an investment in securities of a company if, after the investment,



- (i) du gouvernement du Canada ou d'une province ou d'un territoire du Canada ou garanti par ces derniers,
  - (ii) d'une municipalité ou d'un conseil scolaire au Canada ou garantis soit par une municipalité canadienne, soit au moyen d'impôts ou de taxes levés sur des biens conformément aux lois de la province ou du territoire où ils sont situés et recouvrables par la municipalité ou le conseil scolaire où ils sont situés, ou par leur truchement;
- b) d'hypothèques de premier rang grevant des biens immeubles situés au Canada;
  - c) de titres d'emprunt d'une corporation, garantis par la cession en faveur d'un fiduciaire de paiements que le gouvernement du Canada a convenu d'effectuer et qui suffisent à acquitter les intérêts au fur et à mesure qu'ils sont échus, ainsi que le montant principal à l'échéance;
  - d) de dépôts bancaires ou de récépissés, de billets ou de certificats de dépôts, d'acceptations ou d'autres effets semblables délivrés ou visés par une banque;
  - e) de dépôts auprès d'une compagnie inscrite;
  - f) de titres d'emprunt de banques;
  - g) d'autres placements prescrits;
  - h) d'une combinaison de sommes en espèces et de placements visés aux alinéas a) à g).

(2) La compagnie inscrite ne doit placer plus de 2 pour cent de son actif total dans des hypothèques de troisième rang ou de rang postérieur.

Hypothèques de troisième rang et autres de rang postérieur

(3) Pour l'application du paragraphe (2), est réputé un placement de la compagnie le placement de sa filiale effectué dans des hypothèques de troisième rang ou de rang postérieur.

Idem

(4) La compagnie inscrite ne doit pas effectuer de placement dans des valeurs mobilières d'une corporation dont l'effet serait :

Valeurs mobilières

- (a) its holdings of securities of all companies carried on its books would exceed 25 per cent of its total assets; or
- (b) its holdings of common shares of all companies carried on its books would exceed 10 per cent of its total assets.

Idem

(5) The shares of a subsidiary of the corporation shall not be included in the calculation of the 10 per cent referred to in clause (4) (b).

Idem

(6) For the purposes of subsection (4), an investment in securities by a subsidiary of a corporation, other than a mutual fund or securities dealer subsidiary of the corporation, shall be deemed to be an investment by the corporation.

Restrictions  
on amount of  
single  
investments

**168.**—(1) No corporation shall directly or indirectly,

- (a) invest, by way of purchases from or loans to any one person or to two or more persons that to the knowledge of the corporation are related, an amount exceeding the greatest of,
  - (i) \$250,000,
  - (ii) 1 per cent of the corporation's total assets, or
  - (iii) such percentage of the corporation's total assets as may be prescribed; or
- (b) make any investment the effect of which will be that the corporation will hold more than 10 per cent of the issued and outstanding shares of a class of voting shares of any one body corporate other than a subsidiary of the corporation.

Government  
and bank  
securities

(2) Clause (1) (a) does not apply so as to restrict investments in,

- (a) securities issued or guaranteed by the Government of Canada, including mortgages insured under the *National Housing Act* (Canada), by the government of any province of Canada or by any municipality in Canada;

- a) soit de porter, au regard de leur valeur comptable, les valeurs mobilières de corporations détenues par la compagnie à plus de 25 pour cent de son actif total;
- b) soit de porter, au regard de leur valeur comptable, les actions ordinaires de corporations détenues par la compagnie à plus de 10 pour cent de son actif total.

(5) Il n'est pas tenu compte, pour le calcul des 10 pour cent visés à l'alinéa (4) b), des actions d'une filiale de la compagnie. Idem

(6) Pour l'application du paragraphe (4), est réputé un placement de la compagnie le placement effectué dans des valeurs mobilières par sa filiale, à l'exception d'une filiale à fonds mutuel ou d'une filiale de courtage en valeurs mobilières. Idem

**168** (1) Nulle compagnie ne doit, directement ou indirectement : Limites au montant des placements particuliers

- a) effectuer, au moyen d'achats faits auprès d'une seule personne ou auprès de plusieurs personnes que la compagnie sait être liées, ou au moyen de prêts consentis à cette personne ou à ces personnes, un placement qui excède le plus élevé des montants suivants :

(i) 250 000 \$,

(ii) 1 pour cent de l'actif total de la compagnie,

(iii) le pourcentage prescrit de l'actif total de la compagnie;

- b) effectuer un placement qui porterait à plus de 10 pour cent le nombre d'actions émises et en circulation d'une catégorie d'actions assorties du droit de vote que celle-ci détient auprès d'une personne morale particulière qui n'est pas sa filiale.

(2) L'alinéa (1) a) n'a pas pour effet d'interdire les placements effectués :

Valeurs mobilières de gouvernements ou de banques

- a) dans des valeurs mobilières émises ou garanties par le gouvernement du Canada, y compris les hypothèques assurées en vertu de la *Loi nationale sur l'habitation* (Canada), par le gouvernement d'une de ses provinces ou par une municipalité du Canada;

S.R.C. 1970, chap. N-10

(b) debt instruments issued or endorsed by a bank.

Securities  
dealers

(3) Subject to such conditions as may be prescribed, a corporation, with the approval of the Superintendent, may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*.

R.S.O. 1980,  
c. 466

Non-  
application

(4) Clause (1) (b) and subsections 169 (2) and (4) do not apply to an investment under subsection (3).

Related  
persons

(5) For the purposes of this section, a person shall be deemed to be related to,

- (a) every body corporate which the person controls and every affiliate of such body corporate;
- (b) every partner of the person who has an interest of 50 per cent or more in a partnership in which the person has an interest of 50 per cent or more;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity;
- (d) the spouse and every child of the person;
- (e) every relative of the person or of his or her spouse who has the same home as the person.

Investment in  
subsidiaries

**169.**—(1) Subject to such terms and conditions concerning subsidiaries as may be prescribed, a registered corporation may establish or acquire as a subsidiary,

- (a) any company incorporated in Canada to acquire, hold, maintain, improve, sell, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;
- (b) with the prior approval of the Superintendent, any company incorporated other than in Canada to acquire, hold, maintain, improve, sell, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;

- b) dans des titres d'emprunt qui sont émis ou endossés par une banque.

(3) Sous réserve des conditions prescrites et avec l'approbation du surintendant, la compagnie peut investir ses fonds dans les actions assorties du droit de vote et entièrement libérées d'un courtier au sens de la *Loi sur les valeurs mobilières*.

Courtiers en valeurs mobilières

L.R.O. 1980, chap. 466

(4) L'alinéa (1) b) et les paragraphes 169 (2) et (4) ne s'appliquent pas au placement visé au paragraphe (3).

Non-application

(5) Pour l'application du présent article, une personne est réputée liée :

Personnes liées

- a) à la personne morale dont elle a le contrôle, ainsi qu'aux membres du même groupe que cette personne morale;
- b) à chacun des associés de cette personne qui a une participation de 50 pour cent ou plus dans une société dans laquelle la personne a également une participation de 50 pour cent ou plus;
- c) à la fiducie ou à la succession sur laquelle la personne a un droit important à titre bénéficiaire ou à l'égard de laquelle elle remplit des fonctions de fiduciaire ou des fonctions analogues;
- d) au conjoint et à chaque enfant de cette personne;
- e) à chaque parent de la personne ou de son conjoint, qui habite avec elle.

**169** (1) Sous réserve des conditions prescrites en ce qui concerne les filiales, la compagnie inscrite peut constituer ou acquérir à titre de filiale :

Placements auprès de filiales

- a) une corporation constituée au Canada dans le but d'acquérir, de détenir, de conserver, d'améliorer, de vendre, de louer ou d'administrer des biens immeubles ou des tenures à bail ou de servir de mandataire lors de l'acquisition ou de la vente de ces biens;
- b) avec l'approbation préalable du surintendant, une corporation constituée en dehors du Canada aux fins d'acquérir, de détenir, de conserver, d'améliorer, de vendre, de louer ou d'administrer des biens immeubles ou des tenures à bail ou de servir de mandataire lors de l'acquisition ou de la vente de ces biens;



- (c) with the prior approval of the Superintendent and subject to such terms and conditions as the Superintendent may impose or as may be prescribed, any company to carry on any other business activity reasonably ancillary to the business of a corporation;
- (d) a loan corporation incorporated in Canada, if the investing corporation is a trust corporation; and
- (e) a trust corporation incorporated in Canada, if the investing corporation is a loan corporation.

Prohibition (2) A subsidiary described in subsection (1) shall not invest its funds except as provided for registered corporations in this Act.

Idem (3) Subsection (2) does not apply to a subsidiary described in clause (1) (c) so long as the corporation satisfies all terms and conditions imposed by the Superintendent or the regulations.

Idem (4) A registered corporation shall not make an investment in or guarantee any obligation of a subsidiary of the corporation if, after the making of the investment or the giving of the guarantee, the total book value of all such investments and guarantees will exceed 5 per cent of the corporation's total assets.

Idem (5) Subsection (4) does not apply to investments in or guarantees of the obligations of a subsidiary described in clause (1) (d) or (e).

Other investments authorized **170.** The Lieutenant Governor in Council may authorize the acceptance by a registered corporation of securities or other assets not fulfilling the requirements of this Act,

- (a) obtained in payment or part payment for securities sold by the corporation;
- (b) obtained under a *bona fide* arrangement for the reorganization of a body corporate whose securities were previously owned by the corporation;
- (c) obtained under an amalgamation with another body corporate of the body corporate whose securities were previously owned by the corporation;

- c) avec l'approbation préalable du surintendant et sous réserve des conditions que fixe ce dernier ou qui sont prescrites, toute corporation dans le but d'exercer une activité raisonnablement accessoire à celle de la compagnie;
- d) une compagnie de prêt constituée au Canada, si l'investisseur est une compagnie de fiducie;
- e) une compagnie de fiducie constituée au Canada, si l'investisseur est une compagnie de prêt.

(2) La filiale visée au paragraphe (1) ne doit pas placer ses fonds qu'en conformité avec les dispositions de la présente loi applicables aux compagnies inscrites. Interdiction

(3) Le paragraphe (2) ne s'applique pas à la filiale visée à l'alinéa (1) c) tant que la compagnie se conforme à toutes les conditions fixées par le surintendant ou dans les règlements. Idem

(4) La compagnie inscrite ne doit pas effectuer de placement auprès de sa filiale, ni cautionner les obligations de cette dernière, si ces opérations avaient pour effet de porter, au regard de la valeur comptable, la somme totale de ces placements et cautionnements à plus de 5 pour cent de son actif total. Idem

(5) Le paragraphe (4) ne s'applique ni aux placements dans la filiale visée aux alinéas (1) d) ou e) ni aux cautionnements des obligations de cette dernière. Idem

**170** Le lieutenant-gouverneur en conseil peut autoriser une compagnie inscrite à accepter des valeurs mobilières ou autres éléments d'actif non conformes aux exigences de la présente loi et obtenus : Acceptation d'autres placements

- a) en paiement total ou partiel de valeurs mobilières vendues par la compagnie;
- b) de bonne foi aux termes d'un arrangement conclu lors de la réorganisation d'une personne morale dont les valeurs mobilières étaient auparavant la propriété de la compagnie;
- c) aux termes de la fusion d'une personne morale dont les valeurs mobilières étaient auparavant la propriété de la compagnie, avec une autre personne morale;

- (d) obtained for the *bona fide* purpose of protecting investments of the corporation;
- (e) obtained by virtue of the purchase by the corporation of the assets of another corporation; or
- (f) obtained by virtue of realizing on the security for a loan where the security is shares in a body corporate and the effect of realizing on the security is that the registered corporation will hold more than 10 per cent of the issued and outstanding shares of a class of voting shares of any one body corporate,

but the securities or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof or, within such further time not exceeding one year as the Lieutenant Governor in Council, on the report of the Superintendent, may fix and determine, unless it can be shown to the satisfaction of the Superintendent that the securities or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

Additional  
collateral

**171.** A registered corporation may take real or personal property as collateral security for any advance or for any debt due to the corporation in addition to any other security for the advance or debt required under this Act.

Allocation of  
security

**172.** A single loan that is secured by two or more assets or classes of assets that would, but for this section, not be an investment of the corporation permitted under this Act may be divided into different amounts and considered as separate loans with respect to each asset or class of assets for the purposes of determining whether the loan is permitted under this Act.

Common  
trust  
funds  
authorized

**173.—(1)** Notwithstanding this or any other Act, a registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, unless the trust instrument otherwise directs, invest money held by it as a fiduciary, other than deposits, in one or more common trust funds of the trust corporation and, where trust money is held by the trust corporation as a co-trustee, the investment thereof in a common trust fund may only be made by the trust corporation with the consent of its co-trustees.

Exception

**(2)** A common trust fund authorized by subsection (1) shall not include any money in relation to a trust established exclusively for savings plans registered under the *Income Tax Act* (Canada).

- d) de bonne foi dans le but de protéger les placements de la compagnie;
- e) lors de l'acquisition par la compagnie de l'actif d'une autre compagnie;
- f) par la réalisation de la sûreté d'un prêt composée d'actions d'une personne morale et qui porte à plus de 10 pour cent le nombre d'actions émises et en circulation d'une catégorie d'actions assorties du droit de vote d'une personne morale particulière que détient la compagnie.

Les valeurs mobilières ou autres éléments d'actif dont l'acceptation est autorisée sont aliénés dans les cinq ans de leur acquisition ou au cours de la période plus longue, n'excédant pas un an, que peut fixer le lieutenant-gouverneur en conseil sur recommandation du surintendant. Toutefois, il n'est pas nécessaire d'aliéner ces valeurs mobilières ou autres éléments d'actif s'il peut être démontré à la satisfaction du surintendant que leur valeur ou leur qualité ne sont pas inférieures à celles des valeurs mobilières qu'ils remplacent.

**171** La compagnie inscrite peut accepter, outre la garantie exigée aux termes de la présente loi, des biens meubles ou immeubles à titre de sûretés accessoires affectées à la garantie de ses créances.

Garantie supplémentaire

**172** Aux fins de déterminer si un prêt est permis aux termes de la présente loi, le prêt simple garanti par deux ou plusieurs biens ou catégories de biens qui, n'était le présent article, ne serait pas permis comme placement, peut être divisé en plusieurs montants et traité comme s'il constituait des prêts distincts se rapportant chacun à un bien ou à une catégorie de biens.

Division en plusieurs montants

**173** (1) Malgré la présente loi ou toute autre loi, la compagnie de fiducie provinciale inscrite et toute autre compagnie de fiducie inscrite ayant cette capacité peuvent, sauf disposition contraire contenue à l'acte de fiducie, placer des sommes d'argent qu'elle détient à titre de fiduciaire, à l'exception des dépôts, dans un ou plusieurs des fonds en fiducie collectifs de la compagnie. Si celle-ci détient ces sommes en qualité de cofiduciaire elle n'effectue ce placement qu'avec le consentement de ses cofiduciaires.

Création de fonds en fiducie collectifs permise

(2) Sont exclues du fonds en fiducie collectif visé au paragraphe (1) les sommes d'argent reliées à la fiducie créée uniquement aux fins de constituer un régime d'épargne enregistré aux termes de la *Loi de l'impôt sur le revenu* (Canada).

Exception

S.R.C. 1952, chap. 146



Idem

(3) No common trust fund shall be established or operated except in the prescribed manner.

Passing of accounts

(4) A trust corporation may, at any time, and shall, when required in writing by the Superintendent so to do under subsection (5), file and pass an account of its dealings with respect to a common trust fund in the surrogate court having jurisdiction in the place in which the fund is being administered, and the court, on the passing of the account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

When account final

(5) An account filed with the Superintendent in accordance with the regulations, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed, the Superintendent requires in writing that the account be filed and passed in the surrogate court.

Accounting only necessary under this section or regulations

(6) Notwithstanding any other Act or law, a trust corporation shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Time and place for passing of account

(7) Upon the filing of an account under this section, the court shall fix a time and place for the passing of the account, and the trust corporation shall cause a written notice of the appointment and a copy of the account to be served upon the Superintendent at least fourteen days before the date fixed for the passing, and the trust corporation shall not be required to give any other notice of the appointment.

Form of account

(8) For the purposes of an accounting under this section, an account may be filed in the form of audited accounts filed with the Superintendent in accordance with the regulations.

Superintendent to represent persons having interest in fund

(9) Upon the passing of an account under this section, the Superintendent shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right, at the person's own expense, to appear personally or to be separately represented.

Approval of court

(10) Where an account filed under this section has been approved by the surrogate court, the approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account.



(3) La création et l'exploitation du fonds en fiducie collectif se font selon les modalités prescrites. Idem

(4) Une compagnie de fiducie peut à tout moment déposer auprès du tribunal successoral du ressort de gestion du fonds en fiducie collectif le compte des opérations qui s'y rapportent et en obtenir l'approbation. Elle y est toutefois tenue si le surintendant l'exige par écrit en vertu du paragraphe (5). Sous réserve du présent article, les attributions du tribunal sont alors les mêmes que dans le cas de l'approbation des comptes de l'exécuteur testamentaire. Approbation du compte

(5) Sauf le cas de preuve d'erreur ou de fraude, le compte déposé auprès du surintendant conformément aux règlements est concluant et lie toutes les parties intéressées quant à son contenu et à la gestion par la compagnie du fonds en fiducie collectif pour la période qui y est précisée, à moins que le surintendant n'exige par écrit, dans les six mois du dépôt de ce compte, que celui-ci soit déposé devant le tribunal successoral pour approbation. Compte définitif

(6) Malgré toute autre loi ou règle de droit, la compagnie de fiducie ne peut pas être tenue de rendre compte de ses opérations reliées au fonds en fiducie collectif autrement qu'aux termes du présent article et des règlements. Reddition de comptes conforme au présent article et aux règlements : la seule nécessaire

(7) Lors du dépôt d'un compte aux termes du présent article, le tribunal fixe la date, l'heure et le lieu de l'approbation. La compagnie de fiducie fait signifier au surintendant, au moins quatorze jours avant la date ainsi fixée, un avis écrit de la convocation accompagné d'une copie du compte. La compagnie ne peut pas être tenue de donner d'autre avis de la convocation. Date et lieu de l'approbation du compte

(8) Aux fins de l'approbation du compte aux termes du présent article, le compte déposé peut revêtir la forme des comptes vérifiés déposés auprès du surintendant conformément aux règlements. Forme que revêt le compte

(9) Lors de l'approbation d'un compte aux termes du présent article, le surintendant représente l'ensemble des titulaires de droits sur les sommes d'argent placées dans le fonds en fiducie collectif. Ces titulaires ont toutefois le droit, à leurs frais, de comparaître en personne ou de se faire représenter par un mandataire. Le surintendant représente les personnes qui y ont un droit

(10) Sauf le cas de preuve d'erreur ou de fraude, si le compte déposé aux termes du présent article a reçu l'approbation du tribunal successoral, cette approbation est concluante et lie toutes les parties intéressées quant à son contenu et quant à la gestion par la compagnie du fonds en fiducie collectif pour la période qui y est précisée. Approbation du tribunal

Costs

(11) The costs of passing an account under this section shall be charged to principal and income of the common trust fund in such proportions as the surrogate court considers proper.

Mutual funds

R.S.O. 1980,  
c. 466

**174.** No registered trust corporation or subsidiary of a registered trust corporation shall promote or operate a mutual fund within the meaning of the *Securities Act* unless the corporation or subsidiary gives notice to the Superintendent at least thirty days before starting to promote or operate the mutual fund and provides such information respecting the mutual fund as the Superintendent may require.

Extent of  
liability  
and powers

**175.—(1)** The liability of a registered trust corporation to persons interested in an estate held by the trust corporation as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the corporation's powers are the same.

Approval of  
the  
corporation  
as executor,  
etc.

(2) Where a registered trust corporation is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the corporation being accepted as a trust corporation for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the corporation, appoint the corporation to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the corporation probate of any will in which the corporation is named as an executor.

Appointment  
as trustee

(3) A registered trust corporation approved by the Lieutenant Governor in Council under subsection (2),

- (a) may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee; and
- (b) may be appointed to any of the offices mentioned in subsection (2) jointly with another person,

R.S.O.1980,  
c. 512

and the appointment may be made whether the trustee is required under a deed, will or document creating a trust or whether the appointment is under the *Trustee Act* or otherwise.

Security not  
required

(4) Notwithstanding any rule, practice or statutory provision, it is not necessary for a trust corporation approved under

(11) Les frais de l'approbation d'un compte aux termes du présent article sont imputés à la fois au principal et aux revenus du fonds en fiducie collectif dans la proportion jugée convenable par le tribunal successoral.

Frais

**174** Ni la compagnie de fiducie inscrite, ni sa filiale, ne doivent assurer la promotion ou l'exploitation d'un fonds mutuel au sens de la *Loi sur les valeurs mobilières*, à moins d'en donner avis au surintendant au moins trente jours avant de commencer à assurer la promotion ou l'exploitation du fonds mutuel, et de fournir au surintendant les renseignements au sujet du fonds qu'il peut exiger.

Fonds  
mutuelsL.R.O. 1980,  
chap. 466

**175** (1) Les obligations de la compagnie de fiducie inscrite, en sa qualité d'exécuteur testamentaire, d'administrateur successoral, de fiduciaire, de séquestre, de liquidateur, de cessionnaire, de tuteur ou de curateur, envers les personnes qui ont un droit sur la succession ou sur les biens visés, selon le cas, sont identiques à celles du particulier qui a reçu le même mandat. Il en est de même des pouvoirs de la compagnie à cet égard.

Étendue des  
obligations et  
pouvoirs

(2) Le tribunal ou le juge fondé à désigner un exécuteur testamentaire, un administrateur successoral, un fiduciaire, un séquestre, un liquidateur, un cessionnaire, un tuteur ou un curateur peut, avec le consentement de la compagnie de fiducie inscrite qui est autorisée à agir en cette qualité et qui a été agréée par le lieutenant-gouverneur en conseil à cet égard pour les fins de la Cour suprême, confier à cette compagnie les fonctions précitées à l'égard de la succession ou de la personne qui relève de la compétence de ce tribunal ou de ce juge. Le tribunal ou le juge peut aussi lui délivrer, en sa qualité d'exécuteur testamentaire visé au testament, les lettres d'homologation du testament.

Agrément de  
la compagnie  
à titre d'exé-  
cuteur testa-  
mentaire, etc.

(3) La compagnie de fiducie inscrite agréée par le lieutenant-gouverneur en conseil aux termes du paragraphe (2), peut être nommée :

Nomination à  
titre de  
fiduciaire

- a) fiduciaire unique quoiqu'il eût été nécessaire, n'eût été la présente loi, de désigner plus d'un fiduciaire;
- b) à n'importe laquelle des fonctions visées au paragraphe (2) en commun avec une autre personne.

Elle peut être nommée à ces titres, que la nomination soit exigée aux termes d'un acte, d'un testament ou d'un autre écrit qui crée une fiducie ou qu'elle soit faite en vertu de la *Loi sur les fiduciaires* ou autrement.

L.R.O. 1980,  
chap. 512

(4) Malgré toute règle, pratique ou disposition d'une loi, la compagnie de fiducie agréée en vertu du paragraphe (2) n'est

Cautionne-  
ment non  
nécessaire

subsection (2) to give any security for the due performance of its duty as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless so ordered by a court.

Trusts

**176.**—(1) A registered corporation is not bound to see to the execution of any trust, whether express, implied or constructive, other than a trust to which the corporation is a party, to which any of its deposits are subject.

Sufficient discharge

(2) The receipt of the person in whose name any deposit stands in the books of the corporation to which subsection (1) applies is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such deposit stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

Application of money paid

(3) A corporation is not bound to see to the application of any money paid upon a receipt under subsection (2).

## PART XI

### ADMINISTRATION

Appointment of Superintendent

**177.**—(1) The Lieutenant Governor in Council shall appoint an officer of the Ministry to be the Superintendent of Deposit Institutions who shall carry out the duties and exercise the powers of the Superintendent under this Act.

Appointment of Director

(2) The Superintendent may appoint an officer of the Ministry to be the Director to carry out the duties and exercise the powers of the Director under this Act.

Appeal panels

**178.**—(1) When an appeal is requested under this Act, the Minister shall appoint a panel to hear the appeal.

Composition

(2) An appeal panel shall consist of two persons who are not public servants and the Superintendent.

Secretary

(3) The Superintendent shall act as secretary of every appeal panel.

Chairman

(4) In appointing an appeal panel, the Minister shall name one of the persons who is not a public servant to be the chairman of the panel.



pas tenue de fournir de cautionnement en garantie de l'exécution de ses obligations d'exécuteur testamentaire, d'administrateur successoral, de fiduciaire, de séquestre, de liquidateur, de cessionnaire, de tuteur ou de curateur, sauf ordonnance contraire du tribunal.

**176** (1) La compagnie inscrite n'est pas tenue de voir à l'exécution d'une fiducie explicite, implicite ou imputée à laquelle ses dépôts sont assujettis, à moins d'être elle-même partie à la fiducie. Fiducies

(2) Le récépissé délivré par la personne dont le nom figure vis-à-vis d'un dépôt aux dossiers de la compagnie visé au paragraphe (1) constitue à l'égard de la compagnie une quittance suffisante de tout paiement effectué relativement à ce dépôt. L'ordre d'effectuer un transfert, signé de la personne précitée, constitue pour la compagnie une autorisation suffisante à cette fin, sans égard à la fiducie à laquelle le dépôt peut alors être assujetti, que l'existence de la fiducie ait été portée ou non à la connaissance de la compagnie. Quittance  
suffisante

(3) La compagnie n'est pas tenue de voir à l'imputation des sommes d'argent à l'origine du récépissé délivré aux termes du paragraphe (2). Imputation  
des sommes  
versées

## PARTIE XI

### APPLICATION DE LA LOI

**177** (1) Le lieutenant-gouverneur en conseil nomme un fonctionnaire du ministère au poste de surintendant des institutions de dépôt, qui exerce les attributions du surintendant aux termes de la présente loi. Nomination  
du  
surintendant

(2) Le surintendant peut nommer un fonctionnaire du ministère au poste de directeur pour exercer les attributions du directeur aux termes de la présente loi. Nomination  
du directeur

**178** (1) Lorsqu'il est interjeté appel aux termes de la présente loi, le ministre nomme les membres d'un comité chargé d'entendre l'appel. Comités  
d'appel

(2) Le comité d'appel se compose de deux personnes qui ne sont pas fonctionnaires, ainsi que du surintendant. Composition

(3) Le surintendant remplit les fonctions de secrétaire des comités d'appel. Secrétaire

(4) Lorsqu'il constitue un comité d'appel, le ministre désigne au poste de président l'une des personnes qui n'est pas fonctionnaire. Président



Idem

(5) No individual shall be disqualified from acting as a member of an appeal panel solely on the grounds that he or she is a depositor in the corporation which is the subject of the proceedings before the panel.

Remuneration

(6) The members of an appeal panel, other than the Superintendent, shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Protection  
from  
personal  
liability

(7) No action or other proceeding for damages shall be instituted against any member of an appeal panel for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

No grants or  
gratuities to  
Ministry  
officials

**179.**—(1) No officer or employee of the Ministry performing duties or exercising powers under this Act shall accept or receive, directly or indirectly, any grant or gratuity from a corporation or any affiliate of a corporation or from any director, officer, employee or agent of a corporation or affiliate of a corporation and no corporation, director, officer, employee or agent of a corporation or any affiliate of a corporation shall make or give, directly or indirectly, any such grant or gratuity.

Interest as  
shareholder

(2) No officer or employee of the Ministry performing duties or exercising powers under this Act shall hold any shares of any corporation.

Capacity  
outside  
Ontario

**180.** The Superintendent and Director may, for the purposes of the administration and enforcement of this Act and the regulations, act outside Ontario as if they were acting inside Ontario.

Records

**181.**—(1) Records required by this Act to be prepared and maintained by the Superintendent or Director may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Admission as  
evidence

(2) When records maintained by the Superintendent or Director are prepared and maintained other than in written form,

- (a) the Superintendent or Director, as the case may be, shall furnish any copy required to be furnished in intelligible written form; and

(5) Une personne n'est pas inhabile à devenir membre d'un comité d'appel pour le seul motif qu'elle est dépositante auprès de la compagnie qui fait l'objet de l'instance portée devant ce comité. Idem

(6) Les membres d'un comité d'appel, à l'exception du surintendant, reçoivent la rémunération et les indemnités que peut fixer le lieutenant-gouverneur en conseil. Rémunération

(7) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre un membre d'un comité d'appel pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de ses fonctions ou pour une négligence ou un défaut imputé dans l'exercice de bonne foi de ses fonctions. Immunité

**179** (1) Aucun employé du ministère qui exerce des attributions aux termes de la présente loi ne doit accepter ni recevoir directement ou indirectement, d'une compagnie, d'un membre du même groupe, de l'administrateur, du dirigeant, de l'employé ou du mandataire d'une compagnie ou du membre du même groupe, quelque don ou gratification. De même, aucune compagnie ni aucun administrateur, dirigeant, employé, ou mandataire de la compagnie ou du membre du même groupe ne doit pas donner, directement ou indirectement, un don ou une gratification pareils. Dons et gratifications  
prohibés

(2) Ne doit pas être actionnaire d'une compagnie l'employé du ministère qui exerce des attributions aux termes de la présente loi. Intérêt en  
tant qu'actionnaire

**180** Pour l'application et l'exécution de la présente loi et des règlements, le surintendant et le directeur peuvent exercer leur compétence en dehors de l'Ontario comme s'ils agissaient à l'intérieur de cette province. Compétence  
en dehors de  
l'Ontario

**181** (1) Les dossiers dont la présente loi requiert la tenue par le surintendant ou le directeur peuvent être conservés, soit sous forme de livres reliés ou à feuilles mobiles, soit sous forme de pellicules photographiques, ou peuvent être enregistrés à l'aide d'un procédé mécanique ou électronique de traitement des données ou d'un autre système de mise en mémoire de l'information, capable de reproduire dans un délai normal sous une forme compréhensible et précise les renseignements exigés. Dossiers

(2) Si les dossiers tenus par le surintendant ou le directeur ne sont pas conservés par écrit : Admissibilité  
en preuve

- a) le surintendant ou le directeur, selon le cas, fournit sous une forme écrite compréhensible les copies exigées;

- (b) a report reproduced from those records, if it is certified by the Superintendent or Director, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Idem

(3) Neither the Superintendent nor the Director shall be required to produce any document where a copy of the document is furnished in compliance with clause (2) (a).

Power to  
require  
evidence

**182.**—(1) In pursuance of his or her duties under this Act, the Superintendent or Director may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employment  
of  
stenographer

(2) The evidence and proceedings in any matter before the Superintendent or Director may be reported by a stenographer who has taken an oath before the Superintendent or Director faithfully to report the same.

Examina-  
tions,  
audits and  
inspections,  
general

**183.**—(1) It is a condition of the registration of a corporation that it facilitate examinations, audits and inspections under this Act.

Material to  
be furnished

(2) For the purpose of an examination, audit or inspection under this Act, the registered corporation and its subsidiaries shall prepare and submit to the person conducting the examination, audit or inspection such statements or returns with respect to its business, finances or other affairs, in addition to the statements or returns mentioned in this Act, as the Superintendent or Director may require, and the officers, agents and servants of the corporation and its subsidiaries shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production  
of books

(3) In order to facilitate an examination, audit or inspection of the books and records of a registered corporation, the corporation and its subsidiaries may be required by the Superintendent or the Director to produce the books and records at the principal place of business of the corporation in Ontario, or at such other convenient place as the Superintendent or Director may direct.

Expense of  
further  
inspection

(4) On the direction of the Superintendent or Director, where an examination, audit or inspection of a corporation or a subsidiary of a corporation is made at an office situate outside Ontario, the corporation shall pay the costs and expenses in connection with such examination, audit or inspection.

- b) le rapport dressé d'après ces dossiers et certifié par le surintendant ou le directeur est admissible en preuve dans la même mesure que les dossiers écrits originaux l'auraient été, sans qu'il soit nécessaire d'établir la qualité du signataire ou l'authenticité de sa signature.

(3) Le surintendant et le directeur ne sont pas tenus de produire le document dont une copie est fournie conformément à l'alinéa (2) a). Idem

**182** (1) Dans l'exercice de leurs fonctions aux termes de la présente loi, le surintendant ou le directeur peuvent exiger et recevoir des affidavits, entendre et recevoir des dépositions et interroger des témoins sous serment. Pouvoir d'exiger une preuve

(2) Les témoignages et comptes rendus relatifs aux affaires instruites devant le surintendant ou le directeur peuvent être transcrits par le sténographe qui a fait serment devant ceux-ci de les transcrire fidèlement. Services de sténographes

**183** (1) Comme condition de son inscription, la compagnie facilite l'examen, la vérification et l'inspection exigés aux termes de la présente loi. Examens, vérifications et inspections

(2) Aux fins de l'examen, de la vérification ou de l'inspection exigés aux termes de la présente loi, la compagnie inscrite et ses filiales dressent et présentent à la personne chargée de ces opérations des relevés et rapports relatifs aux activités commerciales, aux finances ou autres affaires de celle-ci, en plus de ceux mentionnés à la présente loi, selon ce qu'exigent le surintendant ou le directeur. Les dirigeants, mandataires et préposés de la compagnie et de ses filiales permettent l'inspection des livres comptables et facilitent l'examen dans la mesure de leurs moyens. Documents à produire

(3) Dans le but de faciliter l'examen, la vérification ou l'inspection des livres comptables et des dossiers de la compagnie inscrite et de ses filiales, le surintendant ou le directeur peuvent exiger la production de ces documents à l'établissement principal de la compagnie en Ontario ou à un autre endroit convenable fixé par ceux-ci. Production des livres comptables

(4) L'examen, la vérification ou l'inspection tenus à un bureau situé hors de l'Ontario s'effectuent aux frais de la compagnie ou de sa filiale si le surintendant ou le directeur l'ordonnent. Frais de l'inspection supplémentaire



Annual  
inspection of  
registered  
corporations

**184.**—(1) Once each year or during such other period as the Superintendent may consider appropriate for a particular corporation, the Superintendent shall examine or cause a person acting under his or her direction to examine the statements of the condition and affairs of each registered corporation and the Superintendent or person shall make such inquiries as are necessary to ascertain the corporation's condition and ability to meet its obligations as and when they become due, whether the corporation is following sound business and financial practices, the procedures and standards of its management and whether or not the corporation has complied with this Act and the regulations and any requirement, order, term, condition or restriction of registration or inquiry made thereunder.

Idem

(2) In conducting the examination required by subsection (1), the Superintendent or other person shall attend at the principal place of business of the corporation and, if he or she considers it necessary, the Superintendent or person acting may visit any branch or office of the corporation.

Reliance on  
inspection  
by another  
government

(3) If the Superintendent is satisfied that an examination of a registered extra-provincial corporation conducted by the Government of Canada or of any province or territory of Canada complies with the standards required by the Superintendent for the examination of a corporation under subsection (1), the Superintendent may accept such examination, in whole or in part, as if it were an examination by the Superintendent under subsection (1).

Examination  
by  
Director

**185.** The Director, or any person designated by the Director, may at any time within business hours examine any books of or in the possession of a registered corporation or any of its subsidiaries relating to its business, wherever situate, and vouchers, securities and documents of a registered corporation.

Special  
examination

**186.**—(1) The Minister, on the Minister's own motion or upon an application by any interested party being made in writing, may appoint any person to make a special examination and audit of a registered corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

Evidence  
upon  
which inquiry  
to be  
ordered

(2) An application under subsection (1) shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.



**184** (1) Une fois l'an ou à l'autre intervalle que le surintendant juge approprié relativement à une compagnie donnée, le surintendant effectue l'examen des états relatifs à la situation et aux affaires de chacune des compagnies inscrites, ou le fait effectuer par son délégué. L'un d'eux mène alors l'enquête nécessaire afin de vérifier la situation de la compagnie et sa capacité de faire honneur à ses obligations au fur et à mesure de leur échéance. Il examine aussi les normes et procédés suivis par la direction et s'assure que la compagnie a suivi de saines pratiques commerciales et financières et a observé la présente loi et les règlements ainsi que les exigences, ordonnances, conditions et restrictions imposées, en vertu de ceux-ci, à l'inscription ou à la suite d'une enquête.

Inspection  
annuelle  
auprès des  
compagnies  
inscrites

(2) Lors de l'examen visé au paragraphe (1), le surintendant ou son délégué se rend à l'établissement principal de la compagnie. Il peut également, s'il le juge à propos, se présenter à toute succursale ou bureau de la compagnie.

Idem

(3) Si le surintendant est convaincu que l'examen effectué par le gouvernement du Canada, d'une province ou d'un territoire du Canada auprès d'une compagnie extraprovinciale inscrite est conforme aux normes qu'il observerait relativement à l'examen effectué aux termes du paragraphe (1), il peut l'adopter, en totalité ou en partie, comme s'il l'avait effectué lui-même aux termes du paragraphe (1).

Inspection  
effectuée par  
un autre gou-  
vernement

**185** Le directeur ou son délégué peut, durant les heures de bureau, faire l'examen des livres comptables de la compagnie inscrite ou de sa filiale qui sont reliés à ses activités commerciales où qu'elles s'exercent, et des livres comptables qui se trouvent en la possession de celles-ci, ainsi que de ses pièces comptables, valeurs mobilières et documents.

Examen par  
le directeur

**186** (1) Le ministre peut, de sa propre initiative ou sur demande écrite d'un intéressé, nommer une personne pour procéder à la vérification et à l'examen particuliers des livres comptables de la compagnie inscrite ainsi que de ses comptes et valeurs mobilières et pour faire enquête d'une manière générale sur la conduite de ses affaires.

Examen  
particulier

(2) La demande présentée en vertu du paragraphe (1) se fonde sur les éléments de preuve que peut exiger le ministre afin d'établir la nécessité de tenir l'enquête et de s'assurer que la demande ne s'inspire pas de motifs malveillants.

Éléments de  
preuve à  
l'appui de  
l'enquête

Security for  
costs

(3) The Minister may require an applicant under subsection (1) to give security for the payment of the costs of the inquiry to be given before appointing the special examiner.

Powers of  
examiner

(4) A special examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies as if the examination, audit or inquiry were an inquiry under that Act.

R.S.O. 1980,  
c. 411

Report to  
Minister

(5) Upon the conclusion of the examination, audit and inquiry, the special examiner shall make a report in writing to the Minister.

Payment of  
costs

(6) The Minister may, on the conclusion of an examination under this section, order the registered corporation or the party requesting the examination under subsection (1) to pay costs of such examination.

Inquiries  
by  
Superin-  
tendent

**187.**—(1) The Superintendent or Director may address any inquiries to a registered corporation or to the president, secretary or any other officer thereof and, in the case of an extra-provincial corporation, also to its agent under section 32, for the purpose of ascertaining the corporation's condition and ability to meet its obligations or as to the conduct of its business or as to complaints made by depositors, borrowers or by persons for whom the registered corporation acts in a fiduciary capacity and it is the duty of a registered corporation or officer so addressed to reply promptly in writing to any such inquiry.

Notice to  
directors

(2) The Superintendent or Director may require a registered corporation to forward a copy of any letter addressed to the registered corporation by the Superintendent or Director and any answer thereto to each director of the corporation and, upon such requirement being made, the secretary of the corporation shall include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement being made by the Superintendent or Director.

Extension  
of time

**188.** Where under this Act a registered corporation is required to provide or file with the Superintendent any return or document or other information, the Superintendent, in his or her absolute discretion and upon payment by the corporation of the prescribed fee, may, before or after the last day for making the submission, extend the time therefor for such period not exceeding sixty days as he or she considers appropriate.

(3) Avant de désigner un enquêteur, le ministre peut exiger que l'auteur d'une demande présentée en vertu du paragraphe (1) fournisse un cautionnement pour les frais de l'enquête.

Cautionnement pour les frais

(4) L'enquêteur peut assigner des témoins à comparaître, recueillir des témoignages sous serment, et, de façon générale, pour les fins de l'examen, de la vérification et de l'enquête, exerce les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique comme s'il s'agissait d'une enquête tenue en vertu de cette loi.

Attributions de l'enquêteur

L.R.O. 1980, chap. 411

(5) Au terme de l'examen, de la vérification et de l'enquête, l'enquêteur présente au ministre son rapport écrit.

Rapport au ministre

(6) Le ministre peut, une fois terminé l'examen mené en vertu du présent article, enjoindre à la compagnie inscrite ou à la personne qui en a fait la demande aux termes du paragraphe (1) d'en acquitter les frais.

Acquittement des frais

**187** (1) Le surintendant ou le directeur peuvent adresser une demande de renseignements à la compagnie inscrite ou à son président, son secrétaire ou un autre de ses dirigeants et, dans le cas de la compagnie extraprovinciale, également à son mandataire visé à l'article 32. Cette demande peut se faire afin de vérifier la situation de la compagnie, sa capacité de faire honneur à ses obligations ou la conduite de ses affaires, ou peut porter sur les plaintes formulées par les déposants, les emprunteurs et les personnes qu'elle représente en qualité de fiduciaire. Il incombe à la compagnie inscrite ou au dirigeant visé de répondre promptement par écrit à la demande.

Demande de renseignements par le surintendant

(2) Le surintendant ou le directeur peuvent exiger que la compagnie inscrite fasse parvenir à chacun de ses administrateurs une copie de chacune des lettres qu'ils lui ont adressées ainsi que de la réponse donnée, le cas échéant. Dans ce cas, le secrétaire de la compagnie annexe ces documents au procès-verbal de la réunion du conseil d'administration qui suit immédiatement la réception de la demande du surintendant ou du directeur.

Avis aux administrateurs

**188** Le surintendant peut, à son entière discrétion et moyennant le paiement par la compagnie inscrite des droits prescrits, avant ou après la date limite, proroger pour une période qu'il juge appropriée et qui ne dépasse pas soixante jours le délai fixé pour le dépôt par la compagnie inscrite des rapports, documents ou autres renseignements exigés aux termes de la présente loi.

Prorogation du délai

Notice as  
proof

**189.**—(1) A notice published in *The Ontario Gazette* over the name of the Superintendent is, without further proof, *prima facie* proof of the facts set forth in the notice.

Certificate as  
to  
registration

(2) A certificate of the Superintendent that on a stated day a body corporate mentioned therein was or was not registered or was registered subject to terms, conditions or restrictions, or that the registration of a corporation was revoked on a stated day, is *prima facie* proof of the facts stated in the certificate.

Certified  
copies

(3) Copies of, or extracts from, any book, record, instrument or document in the office of the Superintendent or of or from any instrument or document issued under this Act, if certified by the Superintendent to be true copies or extracts, shall be held as authentic and are *prima facie* proof of and have the same legal effect as the original.

Agreements  
with other  
Governments

**190.** The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada or of any province or territory in Canada, or the appropriate authority thereof, related to the administration and enforcement of this Act or of comparable legislation of any such other jurisdiction and, without restricting the generality of the foregoing, any such agreement may provide for the provision and exchange of information.

Capacity of  
Superin-  
tendent

**191.**—(1) The Superintendent may do all things necessary or incidental to the administration and enforcement of this Act and the regulations and, in particular, but without limiting the generality of the foregoing, may,

- (a) receive written undertakings from corporations and enter into written agreements with corporations; and
- (b) enter into written agreements with third parties related to the administration of this Act and the regulations and give indemnities to third parties related to such activities as are authorized under such agreements.

Annual  
report

(2) The Superintendent shall, not later than the 31st day of August in each year, submit to the Minister a report on the activities of the Superintendent's office for the twelve-month period ending on the preceding 31st day of March and the Minister shall then lay the report before the Assembly if it is in session or, if not, at its next session.



**189** (1) L'avis publié dans la *Gazette de l'Ontario* et sur lequel figure le nom du surintendant fait foi *prima facie* de son contenu sans qu'une autre preuve soit nécessaire. L'avis fait foi

(2) Fait foi *prima facie* de son contenu, le certificat du surintendant précisant qu'à une date donnée, la personne morale qui y est mentionnée était inscrite ou non, que son inscription était subordonnée à certaines conditions et restrictions ou a été révoquée. Certificat d'inscription

(3) Les copies ou extraits certifiés conformes par le surintendant et tirés de livres comptables, de dossiers, d'actes ou de documents conservés à son bureau de même que d'actes ou de documents délivrés aux termes de la présente loi sont tenus pour authentiques, font preuve *prima facie* de l'original et produisent les mêmes effets juridiques. Copies certifiées conformes

**190** Le ministre peut, avec l'approbation du lieutenant-gouverneur en conseil, conclure des accords avec le gouvernement du Canada, d'une province ou d'un territoire du Canada ou avec l'organisme qui les représente, concernant l'application et l'exécution de la présente loi ou de la loi correspondante de l'autre compétence visée. Ces accords peuvent prévoir notamment que des renseignements seront fournis et échangés. Accords conclus avec d'autres gouvernements

**191** (1) Le surintendant peut prendre toute mesure essentielle ou accessoire relative à l'application et à l'exécution de la présente loi et des règlements, et notamment : Pouvoirs du surintendant

- a) accepter des engagements écrits souscrits de la part de compagnies et conclure avec elles des conventions écrites;
- b) conclure avec des tiers des conventions écrites reliées à l'application de la présente loi et des règlements, et leur accorder des garanties d'indemnité relatives aux activités permises aux termes de ces conventions.

(2) Le surintendant présente au ministre, au plus tard le 31 août de chaque année, un rapport concernant les activités du bureau du surintendant pour la période de douze mois se terminant le 31 mars précédent. Le ministre présente alors le rapport à l'Assemblée si celle-ci siège, sinon, au cours de la session suivante. Rapport annuel



## PART XII

## ENFORCEMENT AND CIVIL REMEDIES

Director's  
orders

**192.**—(1) Where, in the opinion of the Director, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with a voluntary compliance program under section 198;
- (d) does not comply with any undertaking given under this Act;
- (e) constitutes a practice which might prejudice or adversely affect the interests of depositors or, if the corporation is a trust corporation, of persons for whom the corporation acts in a fiduciary capacity,

the Director may give notice to the registered corporation or other person of an intention to order the corporation or other person,

- (f) to cease doing any act or to cease pursuing any course of conduct identified by the Director; or
- (g) to perform such acts as in the opinion of the Director are necessary to remedy the situation.

Hearing

(2) The corporation or other person, by written notice served on the Director within fifteen days after the service of the notice on the corporation or other person under subsection (1), may require a hearing before the Director.

Temporary  
order

(3) Notwithstanding subsection (2), where in the opinion of the Director the interests of the depositors or the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Director may make a temporary order as described in clause (1) (f) or (g) which shall take effect immediately on its making and which shall become permanent on the fifteenth day after its making unless within that time a hearing before the Director is requested.

## PARTIE XII

## EXÉCUTION ET RECOURS DE NATURE CIVILE

**192** (1) Lorsque, de l'avis du directeur, une compagnie inscrite ou une autre personne commet un acte ou suit une ligne de conduite : Décision

- a) qui ne sont pas conformes à la présente loi ou aux règlements;
- b) dont la poursuite risque vraisemblablement de créer une situation qui ne soit pas conforme à la présente loi ou aux règlements;
- c) qui ne sont pas conformes à un programme d'adhésion volontaire visé à l'article 198;
- d) qui ne sont pas conformes à un engagement pris aux termes de la présente loi;
- e) qui risquent de léser les droits des déposants ou, dans le cas d'une compagnie de fiducie, des personnes qu'elle représente à titre de fiduciaire,

celui-ci peut envoyer à la compagnie inscrite ou à l'autre personne un avis de son intention de prendre une ordonnance lui enjoignant :

- f) de mettre fin aux actes ou à la ligne de conduite que le directeur précise;
- g) de prendre les mesures qui, de l'avis du directeur, s'imposent afin de remédier à la situation.

(2) La compagnie ou l'autre personne peut, au moyen d'un avis écrit signifié au directeur dans les quinze jours de la signification de l'avis visé au paragraphe (1), exiger la tenue d'une audience devant le directeur. Audience

(3) Malgré le paragraphe (2), dans le cas où, de l'avis du directeur, tout retard apporté à la prise de l'ordonnance permanente risque de porter atteinte aux droits des déposants ou du public, le directeur peut prendre une ordonnance provisoire en vertu des alinéas (1) f) ou g). L'ordonnance prend effet dès qu'elle est prise et devient permanente le quinzième jour suivant, sauf si une demande d'audience devant le directeur est présentée au cours de ce délai. Ordonnance provisoire

- When order may be made (4) Where no hearing is requested within the time set out in subsection (2) or (3), or where a hearing is held and the Director is of the opinion that an order described in clause (1) (f) or (g) should be made, the Director may make a permanent order under either of those clauses which shall take effect immediately on its making or at such later date as may be set out in the order.
- Hearing (5) A request for a hearing under subsection (3) shall be in writing and served on the Director.
- Extension of order (6) Where a hearing is requested under subsection (3), the Director may extend the temporary order until the hearing is concluded or any appeal from the hearing is concluded and the order is confirmed, varied or revoked.
- Copy to directors (7) Where an order is made under this section, a copy of the order shall be sent to each director of the affected corporation.
- Modification or revocation (8) The Director, after giving the corporation or other person named in the order an opportunity to be heard, may modify or revoke an order made under this section.
- Appeals **193.**—(1) A party to a hearing before the Director, within fifteen days after the receipt of the Director's decision, may appeal the decision to an appeal panel by serving a notice in writing of the appeal on the Superintendent who shall advise the Minister forthwith of the request.
- Idem (2) An appeal shall be based on such evidence as may be presented to the appeal panel, and the panel, upon hearing an appeal, may confirm, vary or revoke the order that is the subject of the appeal.
- Superintendent approvals **194.**—(1) Where under this Act there is provision for an approval or consent of the Superintendent, he or she may give or refuse the approval or consent and the approval or consent may be subject to such terms and conditions as the Superintendent may impose.
- Final decision (2) A decision by the Superintendent under this Act shall be in writing and is not subject to appeal to an appeal panel.
- Hearing (3) Before refusing an approval or consent or before granting an approval or consent subject to terms and conditions, the Superintendent shall give the registered corporation notice of his or her intention and the registered corporation may require a hearing before the Superintendent.

(4) Le directeur peut prendre une ordonnance permanente en vertu des alinéas (1) f) ou g), s'il n'est pas demandé d'audience dans le délai imparti au paragraphe (2) ou (3), ou si cette audience se tient et que le directeur est d'avis qu'il faut prendre cette ordonnance. L'ordonnance prend effet dès qu'elle est prise ou à la date ultérieure qui y est précisée.

Moment de rendre la décision

(5) La demande d'audience faite en vertu du paragraphe (3) est présentée par écrit et signifiée au directeur.

Audience

(6) Le directeur peut, lorsqu'une audience est demandée aux termes du paragraphe (3), prolonger les effets de l'ordonnance provisoire tant que l'audition n'est pas terminée ou qu'une décision pour confirmer, modifier ou révoquer l'ordonnance n'a pas été rendue en appel.

Prolongation des effets de l'ordonnance

(7) Une copie de l'ordonnance prise aux termes du présent article est envoyée à chacun des administrateurs de la compagnie visée.

Copies aux administrateurs

(8) Après avoir donné à la compagnie ou à l'autre personne l'occasion de se faire entendre, le directeur peut modifier ou révoquer l'ordonnance prise aux termes du présent article.

Modification ou révocation

**193** (1) Une partie à l'audience tenue devant le directeur peut, dans les quinze jours de la réception de la décision du directeur, en interjeter appel devant un comité d'appel en signifiant au surintendant un avis écrit d'appel. Celui-ci en notifie le ministre sans délai.

Appels

(2) L'appel est fondé sur la preuve présentée au comité d'appel. Ce dernier peut ensuite confirmer, modifier ou révoquer l'ordonnance qui en fait l'objet.

Idem

**194** (1) Dans les cas prévus par la présente loi, le surintendant peut refuser ou accorder son consentement ou son approbation, qui peuvent alors être assortis des conditions qu'il impose.

Approbation, etc., par le surintendant

(2) La décision rendue par le surintendant aux termes de la présente loi est présentée par écrit et ne peut faire l'objet d'un appel devant un comité d'appel.

Décision définitive

(3) Avant de refuser ou d'accorder son consentement ou son approbation, et avant de les accorder assortis de conditions, le surintendant avise la compagnie inscrite de son intention. Elle peut exiger la tenue d'une audience devant le surintendant.

Audience

Power of  
Superin-  
tendent

(4) The Superintendent, having given the registered corporation an opportunity to be heard, may confirm, revoke or vary any approval, consent or refusal.

Restriction  
on borrowing

(5) The Superintendent, having given a registered corporation an opportunity to be heard, may reduce to any amount the amount that it may receive by way of deposit or borrow in the case of a trust corporation or that it may borrow, in the case of a loan corporation and the amount may be an amount that is less than ten times its capital base.

Director may  
be party

**195.** The Director is entitled to attend and to be represented by counsel at any hearing before an appeal panel.

Transcript

**196.** Oral evidence taken before the Director, the Superintendent or an appeal panel may be recorded and, if recorded, copies of a transcript thereof shall be furnished upon request upon the same terms and for the same fees as in the Supreme Court.

Hearings *in  
camera*

**197.** A hearing before the Director, the Superintendent or an appeal panel, at the discretion of the Director, the Superintendent or the chairman of the panel, as the case may be, may be heard *in camera* or in public.

Voluntary  
compliance  
program

**198.—**(1) Where, in the opinion of the Superintendent, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with any undertaking given under this Act; or
- (d) constitutes a practice that might prejudice or adversely affect the interests of depositors or persons for whom the registered corporation, if a trust corporation, acts in a fiduciary capacity,

the registered corporation or other person may enter into a program of voluntary compliance related to any act or course of conduct described in clause (a), (b), (c) or (d).



(4) Après avoir donné à la compagnie inscrite l'occasion de se faire entendre, le surintendant peut confirmer, révoquer ou modifier l'approbation, le consentement ou le refus.

Pouvoirs du  
surintendant

(5) Après avoir donné à la compagnie inscrite l'occasion de se faire entendre, le surintendant peut réduire à un montant quelconque, même à un montant inférieur à dix fois l'apport en capital de la compagnie, le montant qu'elle peut recevoir à titre de dépôts ou qu'elle peut emprunter, dans le cas d'une compagnie de fiducie inscrite, ou le montant qu'elle peut emprunter, dans le cas d'une compagnie de prêt inscrite.

Limitation  
d'emprunts

**195** Le directeur a le droit d'assister en personne et d'être représenté par un avocat lors de l'audience devant un comité d'appel.

Le directeur  
peut être  
partie

**196** Les témoignages oraux reçus par le directeur, le surintendant ou un comité d'appel peuvent être enregistrés. Dans ce cas, une copie de leur transcription est remise sur demande, selon les mêmes modalités et moyennant le paiement des mêmes droits qu'à la Cour suprême.

Transcription

**197** L'audience tenue devant le directeur, le surintendant ou un comité d'appel peut avoir lieu à huis clos ou en public, à la discrétion du directeur, du surintendant ou du président du comité d'appel, selon le cas.

Audiences à  
huis clos

**198** (1) Lorsque, de l'avis du surintendant, une compagnie inscrite ou une autre personne commet un acte ou suit une ligne de conduite :

Programme  
d'adhésion  
volontaire

- a) qui ne sont pas conformes à la présente loi ou aux règlements;
- b) dont la poursuite risque vraisemblablement de créer une situation qui ne soit pas conforme à la présente loi ou aux règlements;
- c) qui ne sont pas conformes à un engagement pris aux termes de la présente loi;
- d) qui risquent de léser les droits des déposants ou, dans le cas d'une compagnie de fiducie, des personnes qu'elle représente à titre de fiduciaire,

la compagnie inscrite ou l'autre personne peut souscrire à un programme d'adhésion volontaire concernant un acte ou une ligne de conduite visés aux alinéas a), b), c) ou d).

Idem

(2) A voluntary compliance program under this section shall be in writing and shall bind the registered corporation or other person from the time it is approved by the Superintendent.

Powers of  
Director not  
affected

(3) Where a voluntary compliance program has been entered into, the Director shall not be prevented from making orders against the registered corporation or other person,

- (a) on matters not covered by the program;
- (b) where the program is not complied with, on matters covered in the voluntary compliance program;
- (c) if there has been a deterioration in the condition of the registered corporation; or
- (d) on matters covered in the program where all the facts related to the matter covered by the program were not known by the Superintendent at the time the program was entered into.

Modification  
of program

(4) The Superintendent on the request of a registered corporation may approve the alteration of a voluntary compliance program entered into under this section.

Cancellation  
of  
registration

**199.**—(1) Where,

- (a) a registered corporation or other person has not complied with an order of the Director or of an appeal panel;
- (b) a registered corporation or other person has breached an order of the court made under section 210;
- (c) grounds exist for the possession and control of a registered corporation by the Superintendent; or
- (d) a registered corporation's authority to carry on business has been cancelled or suspended or terms or conditions have been imposed on its authority to carry on business under a law of Canada or of any province or territory of Canada,

the Director may revoke the registration of the corporation or impose terms, conditions or restrictions on the registration of the corporation.

(2) Le programme d'adhésion volontaire visé au présent article est dressé par écrit et lie la compagnie inscrite ou l'autre personne dès son approbation par le surintendant. Idem

(3) La souscription de la compagnie inscrite ou de l'autre personne au programme d'adhésion volontaire n'empêche pas le directeur de prendre à l'encontre de ces personnes une ordonnance : Aucune incidence sur les pouvoirs du directeur

- a) dont l'objet ne figure pas au programme;
- b) dont l'objet figure au programme lorsque ce dernier n'a pas été observé;
- c) lorsqu'il y a eu détérioration de la situation de la compagnie inscrite;
- d) dont l'objet figure au programme si tous les faits relatifs à l'objet du programme n'étaient pas connus du surintendant au moment de la souscription de la compagnie au programme.

(4) À la demande de la compagnie inscrite, le surintendant peut donner son approbation à la modification apportée au programme d'adhésion volontaire auquel a souscrit la compagnie aux termes du présent article. Modification au programme

**199** (1) Le directeur peut radier l'inscription de la compagnie ou assortir son inscription de conditions et de restrictions, si : Radiation de l'inscription

- a) la compagnie ou une autre personne ne s'est pas conformée à l'ordonnance du directeur ou du comité d'appel;
- b) la compagnie ou une autre personne ne s'est pas conformée à l'ordonnance du tribunal rendue en vertu de l'article 210;
- c) des motifs justifient une prise de possession et de contrôle par le surintendant;
- d) l'autorisation d'exercer ses activités commerciales a été résiliée, interrompue ou assortie de conditions en vertu d'une loi du Canada, d'une province ou d'un territoire du Canada.

Notice of  
intention

(2) Where the Director proposes to act under subsection (1), the Director shall serve a notice of the intention to act on the corporation.

Hearing

(3) Subsections 192 (2) and (3) apply where a notice is served under subsection (2).

Corporation  
to cease  
business  
except  
for winding  
up  
purposes

(4) After the revocation of a registration under this section, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as it is necessary for the winding up of its business in Ontario, but any liability incurred by it may be enforced against it as if such revocation had not taken place.

Notice on  
change of  
status

**200.**—(1) On the revocation of the registration of any corporation, or the modification of any of the terms, conditions or restrictions on its registration, the Superintendent shall cause notice in writing thereof to be delivered to it.

Idem

(2) Where the corporation has had its registration revoked, the notice shall be published by the Superintendent in *The Ontario Gazette*.

Orders  
imposing  
limitations  
and  
conditions  
or for taking  
possession  
and control

**201.**—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council, without holding a hearing, may order,

- (a) that a corporation's registration shall be subject to such terms, conditions and restrictions as are set out in the order; or
- (b) that the Superintendent take possession and control of the assets of a provincial corporation,

where, in the opinion of the Lieutenant Governor in Council, one or more of the following has occurred:

1. There has been, on or after the 21st day of December, 1982, a transfer or issue of shares to which subsection 63 (1) or (5) applies and consent has not been obtained under section 63 or a predecessor thereof.
2. The corporation has defaulted on payment of any of its liabilities.
3. The corporation is not complying with this Act or the regulations.
4. The corporation's assets are not satisfactorily accounted for.

(2) Le directeur signifie à la compagnie avis de son intention de prendre les mesures visées au paragraphe (1).

Avis d'intention de prendre des mesures

(3) Les paragraphes 192 (2) et (3) s'appliquent dans le cas de signification de l'avis visé au paragraphe (2).

Audience

(4) Sauf dans la mesure nécessaire à la liquidation de son entreprise en Ontario, la compagnie dont l'inscription est radiée cesse ses opérations et ses activités commerciales dans cette province, à moins d'être réinscrite. Elle demeure toutefois responsable de ses obligations, dont l'exécution peut être exercée contre elle comme si la radiation n'avait pas eu lieu.

Cessation des activités commerciales, sauf le cas de liquidation

**200** (1) Le surintendant fait remettre à la compagnie inscrite dont l'inscription a été radiée ou dont les conditions et restrictions d'inscription ont été modifiées un avis écrit à cet effet.

Avis de modification de statut

(2) Le surintendant publie dans la *Gazette de l'Ontario* l'avis de radiation de l'inscription de la compagnie.

Idem

**201** (1) Malgré toute disposition contraire de la présente loi, le lieutenant-gouverneur en conseil peut par décret, sans tenir d'audience :

Imposition de limitations et conditions, prise de possession et contrôle

- a) assortir l'inscription de la compagnie des conditions et restrictions qui y sont énoncées;
- b) enjoindre au surintendant de prendre possession et d'assumer le contrôle des biens de la compagnie provinciale,

lorsqu'à son avis, l'une ou plusieurs des situations suivantes se sont produites :

1. Le 21 décembre 1982 ou après cette date, il y a eu transfert ou émission d'actions auxquels s'applique le paragraphe 63 (1) ou (5), sans l'obtention préalable du consentement visé à l'article 63 ou à une disposition que cet article remplace.
2. La compagnie a fait défaut d'acquitter tout ou partie de son passif.
3. La compagnie ne se conforme pas à la présente loi ou aux règlements.
4. Il n'est pas suffisamment rendu compte de l'actif de la compagnie.



5. The corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors.
6. There exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's depositors, creditors or shareholders.

Delivery of  
order

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Superintendent shall deliver a copy of the order to an officer of the registered corporation.

Order final  
and binding

(3) An order of the Lieutenant Governor in Council under subsection (1) shall take effect immediately and the order is final and binding and no such order or any order made under subsection (5) confirming or varying such order shall be stayed, varied or set aside by any court.

Appointment  
of appraiser

(4) For the purposes of this section, the Lieutenant Governor in Council may appoint such persons as the Lieutenant Governor in Council considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities.

L.G. in C.  
may confirm,  
vary or  
rescind  
orders

(5) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order made under subsection (1), the Lieutenant Governor in Council, by order, may confirm, vary or rescind the whole or any part of such order and an order under this subsection is final and binding.

Saving

(6) Nothing in this section affects the right of the Lieutenant Governor in Council to vary or rescind, at any time, an order made under subsection (1).

Power of  
Superin-  
tendent  
upon taking  
control

**202.**—(1) If so ordered by the Lieutenant Governor in Council under section 201, the Superintendent shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in the Superintendent's opinion should be taken toward its rehabilitation or, where an order is made under paragraph 1 of subsection 201 (1), its continued operation, and for such purposes the Superintendent has all the powers of the board of directors of the corporation, and without limiting the generality of the foregoing, the Superintendent may,

5. L'actif de la compagnie, eu égard à toutes les circonstances, ne peut suffire à protéger ses déposants.
6. Une situation ou des pratiques qui ont cours au sein de la compagnie portent ou risquent de porter atteinte à l'intérêt du public ou à l'intérêt des déposants, créanciers ou actionnaires de la compagnie.

(2) Le surintendant remet copie du décret du lieutenant-gouverneur en conseil pris en vertu du paragraphe (1) à l'un des dirigeants de la compagnie inscrite.

Remise du décret

(3) Le décret du lieutenant-gouverneur en conseil pris en vertu du paragraphe (1) prend effet immédiatement, est définitif et a force exécutoire. Aucun tribunal ne doit suspendre, modifier ou annuler ce décret ni celui pris en vertu du paragraphe (5).

Le décret a force exécutoire

(4) Pour l'application du présent article, le lieutenant-gouverneur en conseil peut nommer le personnel qu'il juge nécessaire aux fins d'évaluer l'actif et le passif de la compagnie et de faire rapport sur sa situation de même que sur sa capacité d'acquitter ou non son passif.

Estimateurs

(5) Sur pétition déposée auprès du greffier du Conseil des ministres par une partie ou une personne intéressée dans les soixante jours du décret pris en vertu du paragraphe (1), le lieutenant-gouverneur en conseil peut, par décret, confirmer, modifier ou annuler celui-ci en totalité ou en partie. Le décret pris en vertu du présent paragraphe est définitif et a force exécutoire.

Le lieutenant-gouverneur en conseil peut confirmer, modifier ou annuler les décrets

(6) Le présent article n'a pas pour effet de limiter le droit du lieutenant-gouverneur en conseil de modifier ou d'annuler le décret pris aux termes du paragraphe (1).

Exception

**202** (1) Lorsque le lieutenant-gouverneur en conseil le décrète en vertu de l'article 201, le surintendant prend possession et assume le contrôle des biens de la compagnie provinciale. Il gère alors l'entreprise et prend les mesures qui, à son avis, s'imposent en vue du redressement de la situation de la compagnie ou, dans le cas d'un décret pris en vertu de la disposition 1 du paragraphe 201 (1), en vue de la poursuite de l'exploitation de la compagnie. À ces fins, le surintendant possède tous les pouvoirs du conseil d'administration de la compagnie et peut notamment :

Pouvoirs du surintendant qui assume le contrôle

- (a) exclude the directors, officers, servants and agents of the corporation from the property and business of the corporation; and
- (b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the income of the corporation and exercise all the powers of the corporation.

Application  
to court

R.S.O. 1980,  
c. 95

(2) While the Superintendent has possession and control of the assets of a provincial corporation under this section, the Superintendent may apply to the court for an order for the winding up of the corporation under Part VI of the *Corporations Act*.

Appointment  
of managers

(3) Where the Superintendent is in possession and control of the assets of a provincial corporation and is conducting its business, he or she may appoint one or more persons to manage and operate the business of the corporation, and,

- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an officer or employee of the Ministry, shall be fixed by the Superintendent.

Relinquishing  
control

(4) Whenever the Lieutenant Governor in Council believes that a corporation whose assets are in the possession and control of the Superintendent meets the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Where  
rehabilitation  
efforts futile

(5) If the Lieutenant Governor in Council considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Superintendent would be futile, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Expenses of  
proceedings

(6) The expenses of the Superintendent incurred in proceedings under this section or section 200 or 201 shall be paid,

- a) exclure les dirigeants, administrateurs, préposés et mandataires de la compagnie de ses locaux et de ses affaires;
- b) gérer et mener les opérations de la compagnie et, au nom de cette dernière, conserver, maintenir, réaliser, accroître ses biens, en disposer, en percevoir les revenus et exercer tous les pouvoirs de la compagnie.

(2) Pendant que le surintendant a la possession et le contrôle de l'actif de la compagnie provinciale en vertu du présent article, il peut présenter au tribunal une requête en vue d'obtenir une ordonnance de liquidation de la compagnie en vertu de la partie VI de la *Loi sur les compagnies et associations*.

Requête au tribunal

L.R.O. 1980, chap. 95

(3) Si le surintendant a la possession et le contrôle de l'actif de la compagnie provinciale et gère l'entreprise de celle-ci, il peut nommer une ou plusieurs personnes aux fins de gérer et d'exploiter l'entreprise. Dans ce cas :

Nomination de gestionnaires

- a) chacune des personnes désignées est le délégué du surintendant;
- b) le surintendant fixe leur rémunération, sauf celle d'un employé du ministère.

(4) Si le lieutenant-gouverneur en conseil est d'avis que la compagnie dont la possession et le contrôle de l'actif sont présentement dévolus au surintendant satisfait aux exigences de la présente loi et que celle-ci est en mesure de gérer son entreprise et de reprendre la possession et le contrôle de son actif, il peut, par écrit, enjoindre à ce dernier de s'en dessaisir en faveur de la compagnie. Les pouvoirs du surintendant en vertu du présent article prennent alors fin à compter de la date précisée dans cette directive.

Remise du contrôle

(5) Si le lieutenant-gouverneur en conseil est d'avis que serait vaine toute nouvelle tentative de redressement de la situation de la compagnie dont la possession et le contrôle de l'actif sont présentement dévolus au surintendant, il peut, par écrit, enjoindre à ce dernier de s'en dessaisir en faveur de la compagnie. Les pouvoirs du surintendant en vertu du présent article prennent alors fin à compter de la date précisée dans cette directive.

Vaines tentatives de redressement

(6) Les frais engagés par le surintendant relativement aux mesures prises aux termes du présent article ou des articles 200 ou 201 sont payés :

Frais



- (a) by the registered corporation; or
- (b) where the corporation that is the subject of the proceeding,
  - (i) is a loan corporation and the corporation cannot pay the full cost of the proceedings, by all registered loan corporations, or
  - (ii) is a trust corporation and the trust corporation cannot pay the full cost of proceedings, by all registered trust corporations,

and, where clause (b) applies, the share of each registered corporation shall be in the same proportion as its total assets in its last preceding fiscal year bears to the total assets of all loan corporations or trust corporations, as the case may be, in the last preceding fiscal year of each.

Advisory  
committee

(7) The registered corporations required by clause (6) (b) to bear the expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Superintendent.

Application  
to court

**203.**—(1) Notwithstanding any other provision of this Act, where the Superintendent has taken possession and control of a registered corporation under section 201, the Superintendent may apply to the High Court of Justice for an order,

- (a) authorizing some other person to conduct the business of the corporation on such terms and conditions as the court thinks fit;
- (b) authorizing and directing the sale of the assets of the corporation in whole or in part notwithstanding any provision of the *Bulk Sales Act*;
- (c) appointing interim or permanent substitute trustees in respect of all or any part of the fiduciary obligations and duties of the corporation;
- (d) authorizing or directing such other action as the court thinks appropriate and in the best interests of the depositors, persons for whom the corporation acts in a fiduciary capacity, the creditors and the public; or

R.S.O. 1980,  
c. 52



- a) par la compagnie inscrite;
- b) si la compagnie qui fait l'objet des mesures :
  - (i) est une compagnie de prêt qui ne peut assumer seule la totalité des frais, par toutes les compagnies de prêt inscrites,
  - (ii) est une compagnie de fiducie qui ne peut assumer seule la totalité des frais, par toutes les compagnies de fiducie inscrites.

Dans le cas d'application de l'alinéa b), la quote-part de chaque compagnie inscrite est proportionnelle au total de son actif pour son dernier exercice, par rapport au total de l'actif de toutes les compagnies de prêt ou compagnies de fiducie, selon le cas, lors de l'exercice précédent de chacune d'elles.

(7) Les compagnies inscrites qui sont tenues, aux termes de l'alinéa (6) b), de supporter des frais engagés par le surintendant peuvent nommer un comité d'au plus six membres afin de conseiller celui-ci sur les questions reliées au redressement de la situation de la compagnie dont la possession et le contrôle de l'actif lui sont dévolus.

Comité consultatif

**203** (1) Malgré toute disposition contraire de la présente loi, lorsque le surintendant a pris la possession et le contrôle de la compagnie inscrite en vertu de l'article 201, il peut demander à la Haute Cour, par voie de requête, de rendre une ordonnance ayant pour effet :

Requête au tribunal

- a) d'autoriser une autre personne à gérer l'entreprise de la compagnie aux conditions que le tribunal estime pertinentes;
- b) d'autoriser et de surveiller la vente de la totalité ou d'une partie des biens de la compagnie, malgré les dispositions de la *Loi sur la vente en bloc*;
- c) de nommer des représentants suppléants, provisoires ou permanents, aux fins d'acquitter la totalité ou une partie des obligations fiduciaires de la compagnie;
- d) d'autoriser ou d'ordonner d'autres mesures que le tribunal juge pertinents et dans l'intérêt véritable des déposants, des personnes que la compagnie représente à titre de fiduciaire, de ses créanciers et du public;

L.R.O. 1980,  
chap. 52

- (e) staying any civil proceedings against the corporation while the Superintendent is in possession and control of the corporation.

Substituted  
fiduciary

(2) Where the High Court of Justice has made an order under clause (1) (c), the fiduciary duties vest in, bind and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary was originally named as fiduciary.

Orders, etc.,  
binding on  
successors  
and  
assignees

**204.** Where an order or approval is made or given under this Act or a term, condition or restriction is imposed on its registration, it is binding on every successor or assignee of the corporation or other person to whom it is directed.

Over-valued  
property

**205.**—(1) If in the opinion of the Director with respect to a registered corporation or its subsidiaries, it appears that,

- (a) the value placed upon the real estate owned by the corporation or any of its subsidiaries or any parcel thereof is too great;
- (b) the amount secured by mortgage upon any parcel of real estate, together with interest due and accrued thereon is greater than the lending value of the parcel, or that the parcel is not sufficient security for the loan and interest; or
- (c) the market value of any other investment is less than the amount shown in the books of the corporation or any of its subsidiaries,

the Director may require the corporation to secure an appraisal of such assets by one or more competent valuers or the Director may procure such appraisal at the expense of the corporation.

Idem

(2) If following an appraisal under subsection (1), it appears that the value of the asset is less than the amount at which it is carried on the books of the registered corporation or any of its subsidiaries or that the value is not adequate security for the loan and interest, the Director may order that the appraised value be reflected in calculations made for the purposes of this Act and the regulations.

Idem

(3) An order of the Director under subsection (2) shall be noted in the corporation's financial statements for the year in which the order is made.

- e) de suspendre toute poursuite civile engagée contre la compagnie pendant que le surintendant a la possession et le contrôle de l'actif.

(2) Si la Haute Cour rend une ordonnance aux termes de l'alinéa (1) c), les obligations fiduciaires passent au représentant suppléant. Celles-ci sont susceptibles d'exécution contre lui dans la même mesure que s'il était le représentant original.

Représentant  
suppléant

**204** L'ordonnance rendue ou l'approbation accordée aux termes de la présente loi, ainsi que les conditions et restrictions dont est assortie son inscription, lient les successeurs et cessionnaires de la compagnie ou de l'autre personne à qui celles-ci s'adressent.

Ordonnances,  
etc., lient les  
successeurs et  
cessionnaires

**205** (1) Le directeur peut exiger que la compagnie fasse appel à un ou plusieurs estimateurs compétents aux fins d'évaluer les biens mentionnés ci-après, s'il est d'avis que :

Surévaluation  
d'un bien

- a) la valeur imputée aux biens immeubles, ou à un bien immeuble particulier, dont la compagnie ou l'une de ses filiales sont propriétaires est trop élevée;
- b) la somme garantie par hypothèque grevant un bien immeuble en faveur de la compagnie ou l'une de ses filiales, majorée des intérêts échus et courus, dépasse sa valeur hypothécable, ou que ce bien immeuble ne constitue pas une sûreté suffisante pour garantir le prêt et les intérêts;
- c) la valeur marchande d'un autre placement est inférieure au montant qui figure aux livres comptables de la compagnie ou de l'une de ses filiales.

Le directeur peut également procéder à cette estimation aux frais de la compagnie.

(2) S'il appert, d'après l'évaluation effectuée aux termes du paragraphe (1), que la valeur d'un bien est inférieure à celle qui est indiquée aux livres comptables de la compagnie inscrite ou de l'une de ses filiales, ou que cette valeur ne constitue pas une sûreté suffisante pour garantir le prêt et les intérêts, le directeur peut ordonner que les calculs faits en application de la présente loi et des règlements reflètent la valeur estimative.

Idem

(3) L'ordre pris par le directeur aux termes du paragraphe (2) figure aux états financiers de la compagnie pour l'exercice au cours duquel le directeur prend l'ordre.

Idem

## Investigation

**206.**—(1) Where upon a statement made under oath it appears probable to the Superintendent that any corporation or other person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act, and in the order shall determine and prescribe the scope of the investigation.

## Scope of investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or corporation in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the corporation or other person and any property, assets or things owned, acquired or alienated in whole or in part by the corporation or other person or by any person or corporation acting on behalf of or as agent for the person or corporation; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the corporation or other person and the relationship that may at any time exist or have existed between the corporation or other person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

## Powers to summon witnesses and require production

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or corporation or any officer or employee thereof from the operation of this section.



**206** (1) Si, aux termes d'une déclaration sous serment, il semble probable au surintendant qu'une compagnie ou une autre personne a contrevenu aux dispositions de la présente loi ou des règlements, celui-ci peut, au moyen d'une ordonnance, mandater une personne pour mener l'enquête qu'il juge opportune pour l'application et l'exécution de la présente loi. Le mandat précise la portée de cette enquête.

Enquête

(2) Pour les fins de l'enquête visée au présent article, la personne mandatée à cette fin peut faire enquête et procéder à l'examen :

Portée de l'enquête

- a) des affaires de la personne ou de la compagnie qui en fait l'objet ainsi que des livres comptables, papiers, documents, de la correspondance, des communications, négociations, opérations, enquêtes, prêts, emprunts de même que des paiements effectués à la compagnie ou à l'autre personne, par ces dernières ou pour leur compte, ou qui sont reliés ou ont trait à celles-ci. Il en est de même des autres biens, des éléments d'actif ou des choses dont elles-mêmes, ou leurs mandataires pour leur compte, sont propriétaires ou que ceux-ci ont acquis ou aliénés en totalité ou en partie;
- b) de l'actif ainsi que du passif, des dettes, engagements et obligations de la compagnie ou de l'autre personne, de leur situation financière ou autre, à n'importe quel moment. Il en est de même des rapports qui peuvent exister ou avoir existé à n'importe quel moment entre celles-ci et une autre personne en raison de placements, d'acquisitions, de commissions promises, assorties de sûretés ou versées, de droits détenus ou acquis, d'acquisition ou de vente d'actions ou autres biens, du transfert, de la négociation ou de la détention d'actions, de directions de liaison, de contrôle commun, d'abus d'influence ou de contrôle ou d'autres rapports.

(3) La personne chargée de l'enquête aux termes du présent article a les pouvoirs de la Cour suprême lors de procès civils pour assigner les témoins, les forcer à être présents, les contraindre à témoigner sous serment ou autrement, ainsi qu'à produire les documents, dossiers et objets qu'ils ont en leur possession ou sous leur garde. Le défaut ou le refus des témoins d'obtempérer rend ceux-ci, sur l'ordre d'un juge de la Cour suprême, passibles d'incarcération pour outrage au tribunal, comme dans le cas du défaut de se conformer à l'ordonnance ou au jugement de la Cour suprême. Aucune disposition de la *Loi sur la preuve* n'a pour effet de dispenser de l'application du présent article une banque, une compagnie ou leurs dirigeants ou employés.

Pouvoir d'assigner des témoins et d'exiger la production de documents



## Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of  
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the corporation or other person whose affairs are being investigated.

Inspection of  
seized  
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the corporation or other person from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or corporation to the person appointed to make the investigation.

Accountants  
and experts

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, property and matters of the person or corporation whose affairs are being investigated.

Reports of  
investigation

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Protection  
from  
personal  
liability

**207.** No action or other proceeding for damages shall be instituted against a person appointed under subsection 206 (1) or (7) for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Order to  
freeze  
property

**208.—**(1) The Superintendent may,

- (a) where the Superintendent is about to order an investigation in respect of a corporation or other person under section 206 or during or after an investigation in respect of a person or corporation under section 206;
- (b) where the Director is about to make or has made a decision revoking the registration of any corporation; or

(4) La personne qui témoigne à l'enquête menée aux termes du présent article peut être représentée par un avocat. Avocat

(5) La personne chargée de l'enquête aux termes du présent article peut saisir les documents, dossiers, valeurs mobilières ou autres biens de la compagnie ou de l'autre personne dont les affaires font l'objet de l'enquête et en prendre possession. Saisie des biens

(6) La personne chargée de l'enquête rend accessibles à des fins d'inspection et de reproduction, à l'heure et au lieu convenus avec la compagnie ou la personne qui en fait la demande, les documents, dossiers, valeurs mobilières ou autres biens qui ont été saisis entre leurs mains en vertu du paragraphe (5). Inspection des documents saisis

(7) Le surintendant peut nommer un comptable ou autre expert pour faire l'examen des documents, dossiers, biens et activités de la compagnie ou de la personne dont les affaires font l'objet de l'enquête visée au présent article. Comptables et experts

(8) La personne nommée en vertu du paragraphe (1) ou (7) présente au surintendant un rapport complet et détaillé de l'enquête, y compris, le cas échéant, la transcription des témoignages et les documents qui s'y rapportent et que celle-ci a en sa possession. Rapport de l'enquête

**207** Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre une personne nommée aux termes des paragraphes 206 (1) ou (7) pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de ses fonctions ou pour une négligence ou un défaut imputé dans l'exercice de bonne foi de ses fonctions. Immunité

**208** (1) Le surintendant peut, au moyen d'un procédé qui produit un texte écrit ou imprimé, enjoindre à une compagnie ou à une autre personne de retenir les fonds, valeurs mobilières ou biens confiés à sa garde, notamment à titre de dépôt, par la compagnie ou la personne visées ci-après, dans les cas suivants : Avoirs bloqués

- a) le surintendant est sur le point d'ordonner une enquête aux termes de l'article 206 relativement à une compagnie ou à une autre personne, ou une telle enquête est déjà en cours ou est terminée;
- b) le directeur est sur le point de rendre ou a rendu sa décision de radier l'inscription d'une compagnie;

- (c) where proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any corporation or other person that in the opinion of the Superintendent are connected with or arise out of any business conducted by the corporation or other person,

by any method that provides a written or printed copy, direct any corporation or other person having on deposit or under control or for safekeeping any funds, securities or assets of the corporation or other person referred to in clause (a), (b) or (c) to hold such funds or securities or assets or direct the corporation or other person referred to in clause (a), (b) or (c) to refrain from withdrawing or dealing with any such funds, securities or assets from any other person having any of them on deposit, under control or for safekeeping or to hold all funds, securities or assets in their possession or control in trust for the Superintendent, or until the Superintendent in writing revokes the direction or consents to release any particular fund or property from the direction.

Idem

(2) A direction issued under subsection (1) does not apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states and in the case of a bank or a corporation, the direction applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person or corporation named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular funds, securities or assets, may apply to the Superintendent for an order of clarification.

Revocation  
or  
amendment  
of  
direction

(4) Upon the application of a registered corporation or other person directly affected by a direction issued under subsection (1), the Superintendent may make an order on such terms and conditions as he or she may impose revoking the direction or consenting to the release of any fund or security.

Notice to  
land registry  
offices

(5) In any of the circumstances mentioned in clause (1) (a), (b) or (c), the Superintendent may by any method that provides a written or printed copy notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the corporation or other person referred to in the notice, and the land registrar shall register the notice against the title of the land.

Idem

(6) A notice registered under subsection (5) has the same effect as the registration of a certificate of pending litigation or a caution, and the Superintendent may in writing revoke or modify the notice.

- c) des poursuites découlant d'une contravention à la présente loi ou aux règlements sont sur le point d'être intentées ou l'ont été contre une compagnie ou une autre personne, et le surintendant est d'avis que les poursuites sont reliées à des activités exercées par la compagnie ou l'autre personne ou en sont la conséquence.

Le surintendant peut de même enjoindre à la compagnie ou à l'autre personne visée aux alinéas a), b) ou c) de s'abstenir de disposer de tels fonds, valeurs mobilières ou biens ou d'en effectuer le retrait auprès de toute personne qui en aurait la garde, notamment à titre de dépôt, ou de les détenir en fiducie pour le compte du surintendant. L'ordre reste en vigueur jusqu'à ce que le surintendant le révoque par écrit. Il peut toutefois consentir à soustraire à son application un fonds ou un bien en particulier.

(2) Sauf disposition expresse à cet effet contenue dans l'ordre donné aux termes du paragraphe (1), celui-ci ne s'applique pas aux fonds ou aux valeurs mobilières en dépôt à la chambre de compensation d'une bourse ou à ceux qui font l'objet d'un transfert par un agent de transferts. Dans le cas des banques et des compagnies, cet ordre ne s'applique qu'aux bureaux, succursales ou agences qui y sont précisés. Idem

(3) La personne ou la compagnie visée par l'ordre donné aux termes du paragraphe (1) et qui s'interroge au sujet de l'application de l'ordre à un fonds, à des valeurs mobilières ou à des biens en particulier peut s'adresser au surintendant, par voie de requête, en vue d'obtenir une ordonnance apportant des précisions. Demande de précisions

(4) Le surintendant, à la requête d'une compagnie inscrite ou d'une personne directement visée par l'ordre donné aux termes du paragraphe (1), peut, aux conditions qu'il fixe, révoquer l'ordre ou consentir à soustraire à son application un fonds ou une valeur mobilière. Révocation ou modification de l'ordre

(5) Dans les cas visés aux alinéas (1) a), b) ou c), le surintendant peut, au moyen d'un procédé qui produit un texte écrit ou imprimé, notifier un registrateur des droits immobiliers qu'une poursuite susceptible de porter sur les biens-fonds appartenant à la compagnie ou à la personne visée est intentée ou sur le point de l'être. Le registrateur fait alors enregistrer l'avis sur le bien-fonds. Avis aux bureaux d'enregistrement immobilier

(6) L'avis enregistré aux termes du paragraphe (5) a le même effet que l'enregistrement d'un certificat d'affaire en instance ou d'un avertissement. Le surintendant peut, par écrit, révoquer ou modifier cet avis. Idem



Liability for  
short-fall

**209.**—(1) Where the Director, under clause 192 (1) (a), (c) or (d), has ordered a registered corporation or any of its subsidiaries to dispose of and realize any of its investments and if the amount realized therefrom falls below the amount paid by it for such investments, the directors of the corporation are jointly and severally liable for the payment to the corporation of the amount of the deficiency.

Idem

(2) If a director is present when any investment referred to in subsection (1) is authorized, forthwith, or if any director then absent, within twenty-four hours after he or she become aware of such investment, and is able to do so, sends his or her written dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting of the board of directors and, within eight days thereafter, notifies the Director in writing of the dissent, the director of the corporation may thereby, but not otherwise, exonerate himself or herself from liability.

Order for  
compliance

**210.**—(1) Where it appears to the Superintendent that any registered corporation or other person has failed to comply with or is not complying with,

- (a) any approval given or any order made under this Act;
- (b) any voluntary compliance program entered into; or
- (c) any term, condition or restriction imposed on its registration,

the Superintendent, in addition to any other rights under this Act, may apply to the High Court of Justice for an order,

- (d) directing the person or corporation to comply with the approval, program or order, term, condition or restriction or restraining the person or corporation from violating the approval, program, order, term, condition or restriction; and
- (e) directing the directors and officers of the person or corporation to cause the person or corporation to comply with or to cease violating the approval, program or order of the Director or Superintendent, or term, condition or restriction imposed on its registration,

and the court may make such order as it considers appropriate.



**209** (1) Si le directeur, agissant en vertu de l'alinéa 192 (1) a), c) ou d), enjoint à la compagnie inscrite ou à l'une de ses filiales de se départir de ses placements et de les réaliser, et si leur valeur de réalisation est inférieure à leur coût initial, les administrateurs de la compagnie sont solidairement tenus de combler l'insuffisance.

Responsabilité  
pour  
insuffisance

(2) L'administrateur présent au moment où le placement visé au paragraphe (1) est autorisé ne dégage sa responsabilité que s'il fait parvenir, sans délai et par écrit, sa dissidence par courrier recommandé ou la remet à l'établissement principal de la compagnie et demande qu'elle soit consignée au procès-verbal de la prochaine réunion du conseil d'administration. Il doit aussi, dans les huit jours, aviser le directeur de sa dissidence, par écrit. L'administrateur absent à ce moment ne dégage sa responsabilité que s'il agit de même dans les vingt-quatre heures qui suivent le moment où il apprend que le placement a été autorisé et a la possibilité d'agir.

Idem

**210** (1) Lorsque le surintendant est d'avis qu'une compagnie inscrite ou une autre personne ne s'est pas conformée ou ne se conforme pas :

Ordonnance  
de se  
conformer

- a) à une approbation ou un ordre donnés ou une ordonnance rendue en vertu de la présente loi;
- b) au programme d'adhésion volontaire auquel elle a souscrit;
- c) à l'une des conditions ou restrictions dont est assortie son inscription,

il peut, outre les autres droits que lui accorde la présente loi, demander par voie de requête à la Haute Cour de justice de rendre une ordonnance aux fins :

- d) d'enjoindre à la personne ou la compagnie de se conformer à l'approbation, au programme, à l'ordre, à l'ordonnance, à la condition ou à la restriction, ou d'interdire à celles-ci d'y contrevenir;
- e) d'enjoindre aux administrateurs et dirigeants de la personne ou de la compagnie de faire en sorte que ces dernières se conforment à l'approbation, au programme, à l'ordre du directeur ou du surintendant ou aux conditions dont est assortie l'inscription ou qu'elles mettent fin à toute contravention à leur égard.

La Haute Cour peut rendre l'ordonnance qu'elle juge pertinente.

Appeal (2) An appeal lies to the Divisional Court from an order made under subsection (1).

Oppression remedy **211.**—(1) A depositor, shareholder, creditor, a person for whom the registered corporation acts in a fiduciary capacity or the Superintendent may apply to the High Court of Justice for an order under this section.

Idem (2) Where, upon an application under subsection (1), the court is satisfied that in respect of a registered corporation or any of its affiliates,

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any shareholder, depositor, creditor or person for whom the corporation acts in a fiduciary capacity, the court may make an order to rectify the matters complained of.

Notice to Superintendent (3) Where a depositor, shareholder, creditor or person for whom the corporation acts in a fiduciary capacity makes an application under subsection (1), he or she shall give notice to the Superintendent.

Court order (4) In connection with an application under this section, the court may make any interim or final order it thinks appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining the conduct complained of;
- (b) an order to regulate a corporation's affairs by amending the by-laws;
- (c) an order appointing directors in place of or in addition to all or any of the directors then in office;

(2) Il peut être interjeté appel devant la Cour divisionnaire de l'ordonnance rendue en vertu du paragraphe (1). Appel

**211** (1) Le déposant, l'actionnaire, le créancier, la personne que représente la compagnie inscrite en qualité de fiduciaire, ainsi que le surintendant peuvent s'adresser à la Haute Cour de justice, par voie de requête, en vue d'obtenir une ordonnance en vertu du présent article. Recours en cas d'abus

(2) Si le tribunal est convaincu, dans le cadre d'une requête présentée en vertu du paragraphe (1) : Idem

- a) qu'un acte ou une omission d'une compagnie inscrite ou d'un membre du même groupe entraînent ou risquent d'entraîner un résultat qui lèse gravement les intérêts d'un actionnaire, d'un déposant, d'un créancier ou d'une personne que la compagnie représente à titre de fiduciaire, ou qui, de façon injuste, porte atteinte à leurs intérêts ou n'en tient pas compte;
- b) que la compagnie ou un membre du même groupe conduisent leurs affaires d'une manière susceptible d'entraîner le résultat décrit à l'alinéa a), l'ont fait ou risquent de le faire;
- c) que les administrateurs de la compagnie ou d'un membre du même groupe ont exercé leurs pouvoirs d'une manière susceptible d'entraîner le résultat décrit à l'alinéa a), l'ont fait ou risquent de le faire,

le tribunal peut rendre une ordonnance afin de redresser la situation.

(3) Le déposant, l'actionnaire, le créancier ou la personne que représente la compagnie à titre de fiduciaire et qui présentent une requête aux termes du paragraphe (1), en donnent avis au surintendant. Avis au surintendant

(4) Pour donner suite à la requête présentée aux termes du présent article, le tribunal peut rendre l'ordonnance provisoire ou définitive qu'il estime pertinente, notamment pour : Ordonnance du tribunal

- a) interdire le comportement reproché;
- b) régler les affaires de la compagnie en modifiant son règlement intérieur;
- c) faire des nominations au conseil d'administration, soit pour remplacer tous les administrateurs en fonction ou certains d'entre eux, soit pour en augmenter le nombre;

- (d) an order varying or setting aside a transaction or contract to which a registered corporation is a party and compensating the registered corporation or any other party to the transaction or contract;
- (e) an order requiring a registered corporation, within a time specified by the court, to produce to the court or an interested person financial statements or an accounting in such other form as the court may determine;
- (f) an order compensating an aggrieved person;
- (g) an order directing rectification of the records of a corporation; or
- (h) an order requiring the trial of any issue.

Want of  
prosecution

**212.**—(1) An application under section 211 shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any person described in subsection 211 (1) may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application to give notice to the person.

Costs

(2) A person described in subsection 211 (1) is not required to give security for costs in any application under that section.

Idem

(3) In an application under section 211, the court may at any time order the registered corporation or any of its affiliates to pay to the shareholder, depositor, creditor or person to whom the corporation acts in a fiduciary capacity or Superintendent interim costs, including reasonable legal fees and disbursements, for which interim costs the applicant may be held accountable to the corporation or its affiliate upon final disposition of the application.

## PART XIII

### OFFENCES AND PENALTIES

Carrying on  
business of  
corporation  
prohibited

**213.**—(1) No person, other than a registered corporation, shall conduct, undertake or transact in Ontario the business of a loan corporation or of a trust corporation.

Acting as  
trustee, etc.,  
prohibited

(2) No body corporate, other than a registered trust corporation, shall,



- d) modifier ou annuler une opération ou un contrat auxquels est partie la compagnie inscrite, et indemniser la compagnie ou une autre partie à l'opération ou au contrat;
- e) enjoindre à la compagnie inscrite de fournir dans le délai imparti, au tribunal ou à la personne intéressée, soit des états financiers, soit un compte-rendu comptable dans une autre forme que précise le tribunal;
- f) indemniser une personne lésée;
- g) rectifier les dossiers de la compagnie;
- h) faire instruire toute question litigieuse.

**212** (1) Le sursis, la transaction ou le rejet, faute de poursuite, de la requête visée à l'article 211 ou le désistement du requérant, sont subordonnés à leur approbation par le tribunal aux conditions qu'il estime pertinentes. Le tribunal peut également ordonner à toute partie d'en donner avis à la personne visée au paragraphe 211 (1) s'il conclut que les droits de celle-ci peuvent être sérieusement atteints par cette mesure.

Absence de poursuite

(2) La personne visée au paragraphe 211 (1) n'est pas tenue de fournir un cautionnement pour dépens lors de la requête visée à cet article.

Dépens

(3) À la suite de la requête visée à l'article 211, le tribunal peut ordonner à la compagnie inscrite ou au membre du même groupe que celle-ci de verser aux actionnaires, déposants, créanciers, aux personnes que la compagnie représente à titre de fiduciaire ou au surintendant, des dépens provisoires, y compris des honoraires légaux et débours raisonnables. Le requérant peut être redevable de ces dépens provisoires envers la compagnie ou le membre du même groupe que celle-ci lors du règlement définitif de la requête.

Idem

### PARTIE XIII

#### INFRACTIONS ET PEINES

**213** (1) Nulle personne autre que la compagnie inscrite ne doit poursuivre, entreprendre ou exercer en Ontario les activités d'une compagnie de prêt ou d'une compagnie de fiducie.

Interdiction d'exercer les activités d'une compagnie

(2) Nulle personne morale autre que la compagnie de fiducie inscrite ne doit :

Interdiction d'agir en tant que fiduciaire, etc.



- (a) offer its services to the public as, or accept or execute the office of,
  - (i) executor or administrator, or
  - (ii) guardian of any minor's estate or committee of any mentally incompetent person's estate; or
- (b) act as a trustee in respect of any service it provides to the public.

Exception

- (3) Clause (2) (b) does not apply to,

1982, c. 4

- (a) a body corporate that is acting as a trustee as provided under Part II of the *Business Corporations Act, 1982* or as required by any other Act; or
- (b) a body corporate that manages a mutual fund trust and that is approved by the Ontario Securities Commission to act as the trustee of the mutual fund trust.

Restriction  
on  
use of name

(4) No person, other than a registered trust corporation, shall hold itself out to the public in Ontario as a registered trust corporation by using in its name the words "trust corporation", "trust company", "trustco", "compagnie de fiducie" or "société de fiducie" or any similar words in its name in conjunction with its business or undertakings, unless such name was legally in use before the day this section comes into force.

Carrying on  
business by  
corporations

(5) No corporation, other than a registered corporation, shall hold itself out to the public in Ontario as a registered corporation by conducting, undertaking or transacting any part or aspect of the business of a trust corporation or loan corporation.

Soliciting  
business

(6) No person, other than a registered corporation and a person duly authorized by it to act on its behalf, shall solicit the business of a trust corporation or loan corporation.

Action of  
promoters,  
etc.

(7) No person shall undertake, transact or solicit in Ontario any part or aspect of the business of a trust corporation or a loan corporation for a body corporate that is not registered under this Act.

Prohibition  
on certain  
activities

(8) No registered corporation, directly or indirectly, through a subsidiary or otherwise, unless permitted under this Act, shall,

a) offrir ses services au public ou accepter ou exercer quelque fonction :

(i) en tant qu'exécuteur testamentaire ou administrateur successoral,

~ (ii) en tant que tuteur aux biens d'un enfant mineur ou curateur aux biens d'une personne frappée d'incapacité mentale;

b) agir en tant que fiduciaire à l'égard des services qu'elle fournit au public.

(3) L'alinéa (2) b) ne s'applique pas :

Exception

a) à la personne morale qui agit en tant que fiduciaire comme le prévoit la partie II de la *Loi de 1982 sur les compagnies* ou comme l'exige une autre loi;

1982, chap. 4

b) à la personne morale qui a été approuvée par la Commission des valeurs mobilières de l'Ontario en tant que fiduciaire d'un fonds mutuel constitué en fiducie dont elle assure la gestion.

(4) Nulle personne autre que la compagnie de fiducie inscrite ne doit se faire passer pour une telle compagnie auprès du public en Ontario en se désignant sous une dénomination sociale qui comporte les mots «trust corporation», «trust company», «trustco», «compagnie de fiducie» ou «société de fiducie» ou autres termes semblables, relativement à ses activités ou entreprises, sauf si la personne employait légalement cette dénomination sociale avant l'entrée en vigueur du présent article.

Restriction à l'utilisation d'une dénomination sociale

(5) Nulle compagnie autre que la compagnie inscrite ne doit se faire passer pour une telle compagnie auprès du public en Ontario en poursuivant, en entreprenant ou en exerçant une partie des activités d'une compagnie de fiducie ou d'une compagnie de prêt.

Activités exercées par les compagnies

(6) Nulle personne autre que la compagnie inscrite et son mandataire autorisé ne doit solliciter la clientèle propre à la compagnie de prêt ou à la compagnie de fiducie.

Sollicitation

(7) Nulle personne ne doit, pour le compte d'une personne morale qui n'est pas inscrite en vertu de la présente loi, entreprendre ou exercer en Ontario une partie des activités d'une compagnie de fiducie ou d'une compagnie de prêt ou solliciter la clientèle qui leur est propre.

Démarches de promoteurs, etc.

(8) Sauf autorisation accordée aux termes de la présente loi, la compagnie inscrite ne doit pas, directement ou indirectement, par l'entremise de ses filiales ou autrement :

Interdiction d'exercer certaines activités

- (a) deal in goods, wares and merchandise or engage in any trade or business;
- (b) provide letters of credit or like instruments;
- (c) guarantee the performance of any obligation by a person other than the corporation or its subsidiary unless the corporation has received security for the guarantee at least equal to the amount of the obligation guaranteed; or
- (d) issue notes of the corporation payable to bearer on demand and intended for circulation.

## Offences

**214.**—(1) Every person who,

- (a) contravenes any provision of section 213;
- (b) fails to comply with any written undertaking given under this Act;
- (c) fails to comply with an order made under this Act;
- (d) contravenes any provision of Part IX;
- (e) allows their name to be used on behalf of a person having a beneficial interest in a corporation for the purpose of disguising such interest;
- (f) contravenes reporting requirements related to insider trading in respect of a corporation;
- (g) traffics in a shareholder's list contrary to section 133;
- (h) accepts or receives or gives a grant or gratuity or holds shares contrary to section 179;
- (i) fails to report to the Superintendent as required under this Act;
- (j) in the case of a registered corporation, contravenes any term, condition or restriction imposed on its registration; or
- (k) knowingly provides false information in relation to any matter under this Act,

is guilty of an offence.

- a) faire le commerce d'effets mobiliers, d'objets et de marchandises ou s'adonner à un commerce;
- b) souscrire des lettres de crédit ou effets semblables;
- c) cautionner l'exécution d'une obligation par une personne autre que la compagnie ou sa filiale, à moins que la compagnie n'ait reçu une sûreté d'une valeur au moins égale au montant de l'obligation garantie;
- d) délivrer des billets au porteur payables sur demande, souscrits par la compagnie et destinés à être mis en circulation.

**214** (1) Est coupable d'une infraction toute personne qui : Infractions

- a) enfreint une disposition de l'article 213;
- b) ne se conforme pas à un engagement écrit pris aux termes de la présente loi;
- c) enfreint une ordonnance prise ou rendue ou un ordre donné en vertu de la présente loi;
- d) enfreint une disposition de la partie IX;
- e) consent à l'utilisation de son nom ou de sa dénomination sociale pour le compte du titulaire d'un droit à titre bénéficiaire dans une compagnie, aux fins de permettre à ce dernier de dissimuler son droit;
- f) ne se conforme pas aux obligations de divulgation relatives aux transactions d'initiés relativement aux compagnies;
- g) trafique des listes d'actionnaires contrairement à l'article 133;
- h) accepte, reçoit ou accorde un don ou une gratification, ou détient des actions, contrairement à l'article 179;
- i) ne présente pas au surintendant un rapport exigé aux termes de la présente loi;
- j) dans le cas d'une compagnie inscrite, enfreint une condition ou restriction dont est assortie son inscription;
- k) fournit sciemment de faux renseignements concernant tout point visé à la présente loi.

## Penalty

(2) On conviction for an offence referred to in subsection (1) or subsection 60 (4) or 61 (6), the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

## Derivative

(3) Every person who caused, authorized, permitted or participated in an offence referred to in subsection (1) or subsection 60 (4) or 61 (6) is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Saving,  
voluntary  
compliance  
program

(4) Notwithstanding subsection (1), a person for whom a voluntary compliance program has been approved by the Superintendent who complies fully with such program shall not be prosecuted for or convicted of an offence in respect of the breach of this Act which the program was intended to remedy.

Saving,  
disclosure

(5) A person is not guilty of an offence under clause (1) (d) if the person was not a party to the offence and reported the failure to comply with Part IX as set out in section 150 or 151.

Limitation  
period

**215.** No proceeding for an offence under this Part shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent.

Order to  
comply

**216.** Where a person is convicted of an offence under this Act or the regulations, the court in which proceedings in respect of the offence are taken, in addition to any punishment it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted.

## Restitution

**217.** Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

## PART XIV

## MISCELLANEOUS AND REGULATIONS

Deposits  
from persons  
unable to  
contract

**218.** A registered corporation, without the authority, aid, assistance or intervention of any other person or official being required, may receive deposits from any person regardless of the person's age, status or condition in life, and whether the



(2) La personne déclarée coupable d'une infraction visée au paragraphe (1) ou aux paragraphes 60 (4) ou 61 (6) est passible d'une amende d'au plus 100 000 \$ à la première déclaration de culpabilité et d'au plus 200 000 \$ à chacune des déclarations subséquentes.

Peine

(3) Toute personne qui a causé, autorisé ou permis la pénétration de l'infraction visée au paragraphe (1) ou aux paragraphes 60 (4) ou 61 (6), ou qui y était partie, est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 100 000 \$ à la première déclaration de culpabilité et d'au plus 200 000 \$ à chacune des déclarations subséquentes.

Infraction dérivée

(4) Malgré le paragraphe (1), la personne qui se conforme à toutes les dispositions d'un programme d'adhésion volontaire approuvé à son égard par le surintendant n'est passible d'aucune poursuite ou condamnation à la suite de la contravention à la présente loi que ce programme était destiné à corriger.

Exception, programme d'adhésion volontaire

(5) N'est coupable d'aucune infraction aux termes de l'alinéa (1) d) la personne qui n'était pas partie à l'infraction et a signalé l'omission de se conformer à la partie IX, conformément aux articles 150 ou 151.

Exception, en cas de divulgation

**215** Est irrecevable la poursuite intentée relativement à une infraction à la présente partie plus de deux ans après que les faits sur lesquels elle se fonde ont été portés à la connaissance du surintendant.

Prescription

**216** Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable d'une infraction à la présente loi ou aux règlements de se conformer à la disposition à l'égard de laquelle elle a été déclarée coupable d'une infraction.

Ordonnance de se conformer

**217** Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

## PARTIE XIV

### DISPOSITIONS DIVERSES ET RÈGLEMENTS

**218** La compagnie inscrite peut, sans l'aide, le concours ni l'intervention d'une autre personne ou d'un fonctionnaire, recevoir les dépôts de toute personne, sans égard à son âge, sa qualité, sa condition ou sa capacité juridique de contracter.

Dépôts par les personnes n'ayant pas la capacité de contracter

person is qualified by law to enter into ordinary contracts or not, and from time to time may pay any or all of the principal thereof and any or all of the interest thereon to or to the order of the person, unless before payment, the money on deposit is claimed by some other person in a court proceeding to which the corporation is a party and in respect of which service of a statement of claim or other process originating such proceeding has been made on the corporation, or in any other proceeding pursuant to which an injunction or order made by the court requiring the corporation not to make payment of such money or to make payment thereof to some person other than the depositor has been served on the corporation, and in the case of any such claim so made the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

Direction as  
to disposition  
of deposits  
on  
death

**219.**—(1) A person who has deposits with a registered corporation not exceeding \$2,000 may, by a writing, signed by him or her and deposited with the corporation, nominate any person to receive the amount thereof at his or her death.

Rights of  
corporation

(2) Upon receiving a statutory declaration as to the death of a person who has made a nomination under subsection (1), the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due.

Where no  
direction

(3) Where a depositor as described in subsection (1) dies without making a nomination in accordance with that subsection, the deposit may, without letters probate or letters of administration being taken out, be paid or transferred to,

- (a) the person who appears to the corporation to be entitled under the will of such depositor or in the case of intestacy under the law relating to devolution of property to receive it; or
- (b) any person who appears to the corporation to be equitably entitled thereto by reason of having incurred expense for the support, medical attendance or burial of the depositor,

upon receipt by the corporation of the statutory declaration of the person so claiming stating the time and place and death of the applicant and the facts supporting the claim.

Unclaimed  
deposits

**220.**—(1) Within thirty days of a deposit made in Ontario to a registered provincial corporation becoming an unclaimed deposit, the corporation shall pay to the Treasurer of Ontario the amount owing to the depositor, including interest, if any, in accordance with the agreement between the corporation and the depositor.

Elle peut de même verser à cette personne ou à son ordre, une partie ou la totalité du principal et des intérêts, sauf si, avant ce versement, les sommes déposées sont revendiquées par une autre personne dans une instance judiciaire à laquelle est partie la compagnie et que cette dernière a reçu signification d'une déclaration ou d'un autre acte introductif d'instance. Cette exception vaut aussi dans le cas de l'instance dans laquelle une injonction ou autre ordonnance enjoignant à la compagnie de ne pas verser la somme d'argent ou d'en effectuer le versement à une personne autre que le déposant a été rendue et signifiée à la compagnie. Si une telle revendication est présentée, les sommes déposées peuvent être versées soit au déposant, soit à l'auteur de la demande, de leur consentement réciproque.

**219** (1) La personne dont les dépôts effectués auprès de la compagnie inscrite ne dépassent pas 2 000 \$ peut, dans un écrit signé de sa main et déposé auprès de la compagnie, désigner le bénéficiaire de ces sommes à son décès.

Disposition  
des dépôts à  
la mort du  
déposant

(2) Dès réception d'une déclaration solennelle concernant le décès de la personne qui est l'auteur de la désignation visée au paragraphe (1), la compagnie peut, dans ses dossiers, substituer au nom de cette personne celui de la personne désignée ou peut immédiatement verser la somme due à la personne désignée.

Droits de la  
compagnie

(3) Au décès du déposant visé au paragraphe (1) qui n'a pas fait de désignation aux termes de ce paragraphe, les sommes déposées peuvent, sans qu'il y ait délivrance de lettres d'homologation ou d'administration, être versées à la personne qui, de l'avis de la compagnie, paraît y avoir droit :

Absence de  
disposition  
expresse

- a) aux termes du testament du déposant ou de la loi qui régit les successions *ab intestat*, selon le cas;
- b) en *equity*, en raison des frais engagés par celle-ci pour les aliments, le traitement médical ou l'inhumation du déposant.

Ceci peut se faire dès réception par la compagnie de la déclaration solennelle de l'auteur de la demande, indiquant la date et le lieu du décès du déposant et les faits à l'appui de sa demande.

**220** (1) Lorsqu'un dépôt fait en Ontario auprès d'une compagnie provinciale inscrite devient un dépôt non réclamé, la compagnie verse au trésorier de l'Ontario, dans les trente jours, le montant qui est dû au déposant, y compris les intérêts, le cas échéant, conformément à l'accord conclu entre la compagnie et le déposant.

Dépôts non  
réclamés

Effect of  
payment

(2) Payment to the Treasurer under subsection (1) discharges the corporation from all liability in respect of the deposit.

Idem

(3) The Treasurer may pay an amount received under subsection (1) to a person claiming to be entitled to it upon being furnished with satisfactory proof of the person's entitlement.

Idem

(4) For the purpose of subsection (1), a deposit becomes an unclaimed deposit on the day ten years after the day on which the fixed term ended, in the case of a deposit for a fixed term, and, in any other case, the day on which the last transaction took place on the depositor's account or a statement of account was last requested or acknowledged by the depositor, whichever is latest.

Payments by  
mistake

**221.** Where a registered corporation, after the death of a depositor, has paid or transferred a deposit to the person who at the time appeared to be entitled thereto, the payment or transfer is valid with respect to any demand from any other person as legatee, next of kin or personal representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit from the recipient or transferee.

Delivery of  
notices

**222.**—(1) Delivery of any written notice or document for any purpose of this Act, where the mode is not otherwise specified, may be delivered by first class ordinary mail or first class registered mail,

- (a) in the case of a registered corporation, addressed to it or its chief executive officer at its principal place of business;
- (b) in the case of a director, addressed to the director at his or her address as shown on the records of the Superintendent; and
- (c) in the case of the Superintendent, addressed to the Superintendent at his or her office.

Idem

(2) In the case of an extra-provincial corporation, a notice or document may be delivered in accordance with clause (1) (a) or may be delivered by first class or registered mail addressed to it or its agent or any of its agents at the address thereof as set out in the most recent application filed under section 32.

Regulations

**223.** The Lieutenant Governor in Council may make regulations,



(2) Le versement du montant au trésorier aux termes du paragraphe (1) libère la compagnie de toute obligation en ce qui concerne le dépôt. Effet du versement

(3) Le trésorier peut verser un montant reçu aux termes du paragraphe (1) à la personne qui prétend y avoir droit, s'il reçoit des preuves satisfaisantes du droit de cette personne à ce montant. Idem

(4) Pour l'application du paragraphe (1), un dépôt devient un dépôt non réclamé le dixième anniversaire de l'échéance, s'il s'agit d'un dépôt à échéance fixe, et, dans tous les autres cas, le dixième anniversaire de la dernière opération relative au compte du déposant, ou du dernier jour où le déposant a demandé un relevé de compte ou a accusé réception d'un tel relevé, selon le jour le plus récent. Idem

**221** Le versement ou la cession par la compagnie inscrite, à la suite du décès du déposant, des sommes déposées à la personne qui paraissait alors y avoir droit est valable face à toute demande de la part du légataire, du plus proche parent ou de l'ayant droit du défunt. Ces personnes sont toutefois fondées à recouvrer ces sommes du bénéficiaire ou du cessionnaire. Versement effectué par erreur

**222** (1) L'envoi d'un avis écrit ou autre document pour l'application de la présente loi s'effectue, à moins qu'un autre mode ne soit précisé, par courrier ordinaire ou recommandé de première classe : Envoi des avis

- a) dans le cas de la compagnie inscrite, à son adresse ou à celle du responsable de la direction à l'établissement principal de la compagnie;
- b) dans le cas de l'administrateur, à l'adresse de ce dernier qui figure aux dossiers du surintendant;
- c) dans le cas du surintendant, à son bureau.

(2) Dans le cas de la compagnie extraprovinciale, l'avis ou le document peut être envoyé, soit conformément à l'alinéa (1) a), soit par courrier de première classe ou recommandé à l'adresse de la compagnie ou de son mandataire ou de l'un d'eux à l'adresse qui figure à la demande la plus récente déposée aux termes de l'article 32. Idem

**223** Le lieutenant-gouverneur en conseil peut, par règlement : Règlements



1. prescribing forms and providing for their use;
2. requiring the payment of annual fees and fees for letters patent of incorporation and supplementary letters patent and in respect of any function performed by the Superintendent or Director under this Act or the regulations and prescribing the amounts thereof;
3. exempting persons holding such percentage, as may be set out in the regulation, of shares of a corporation from the requirements of section 63;
4. exempting classes of corporations from the requirements of section 63;
5. respecting the records, papers and documents to be retained by corporations and the length of time they shall be so retained;
6. requiring the disclosure to borrowers of terms and conditions of loans and mortgages and of interest rates in lending transactions;
7. prescribing words or expressions that are prohibited in the name of a corporation and prescribing conditions for the use of names by corporations;
8. prescribing the information that shall be maintained in the Loan Corporations Register, the Trust Corporations Register and the public file of each corporation;
9. governing the custody and safekeeping of securities, property or trust assets registered in the name of or held by a registered corporation;
10. prescribing financial statements required under this Act and the method of their preparation;
11. prescribing information to be placed before the annual meeting of a corporation and requiring a corporation to make public such information as may be set out in the regulations;
12. governing the reporting of information to and by The Trust Companies Association of Canada Inc.;

1. prescrire des formules et prévoir les modalités de leur emploi;
2. exiger l'acquiescement de droits annuels, ainsi que de droits pour la délivrance de lettres patentes de constitution et de lettres patentes supplémentaires, de même que de droits reliés à l'exercice des fonctions du surintendant ou du directeur aux termes de la présente loi ou des règlements, et prescrire les montants de ces droits;
3. soustraire à l'application de l'article 63 les détenteurs d'un pourcentage d'actions de la compagnie, tel que fixé au règlement;
4. soustraire à l'application de l'article 63 des catégories de compagnies;
5. prévoir les dossiers, écrits et documents que la compagnie doit conserver, de même que la durée de leur conservation;
6. exiger la divulgation aux emprunteurs des conditions dont sont assorties les prêts et les hypothèques, ainsi que des taux d'intérêts relatifs aux opérations de prêt;
7. prescrire des mots ou expressions dont l'emploi dans la dénomination sociale d'une compagnie est interdit, et prescrire les conditions d'utilisation de dénominations sociales par les compagnies;
8. prescrire les renseignements qui sont conservés dans le Registre des compagnies de prêt, le Registre des compagnies de fiducie, et le dossier public de chacune d'elles;
9. régir la garde et le maintien en lieu sûr des valeurs mobilières, des biens et notamment des biens détenus en fiducie, conservés par la compagnie inscrite ou inscrits à son nom;
10. prescrire les états financiers exigés aux termes de la présente loi, ainsi que la façon de les établir;
11. prescrire les renseignements devant être présentés lors de l'assemblée annuelle de la compagnie, et exiger que celle-ci rende publics les renseignements que prescrit le règlement;
12. régir la communication de renseignements à L'Association des compagnies de fiducie du Canada Inc., ainsi que leur diffusion par celle-ci;

13. prescribing the method of calculating the capital base of a corporation, including what assets may or may not be included therein and the manner in which the value of any such asset shall be calculated or determined for such purpose;
14. prescribing the method of calculating the total assets of a corporation, including the manner in which the value of any such asset shall be calculated or determined for such purpose;
15. prescribing classes of loans, investments or transactions for the purposes of Part IX;
16. prescribing limits in dollar amounts or in a percentage of total assets of investments in any asset or any class of assets and where a limit has been imposed by this Act with respect to any asset or class of assets, prescribing limits that are more restrictive than those set out in the Act;
17. prescribing the method of calculating liquidity of a corporation;
18. governing the issue of subordinated notes;
19. governing the establishment and operation of common trust funds and the investment of trust money in such funds;
20. requiring the bonding and insurance coverage of and for directors, officers, agents and employees of the corporation and of property of the corporation or held by it;
21. governing the activities of a registered corporation in dealing with persons who act as agents for the corporation and governing the relationships between the corporation and its agents;
22. designating statutes and ordinances for the purposes of clause 162 (2) (a);
23. prescribing a percentage for the purposes of clause 168 (1) (a);
24. governing the establishment of networks by registered corporations for the purpose of providing financial services to their clients;

13. prescrire le mode de calcul de l'apport en capital de la compagnie, y compris les biens devant être inclus ou non et, à cette fin, le mode d'évaluation de chacun de ces biens;
14. prescrire le mode de calcul de l'actif total de la compagnie, y compris le mode d'évaluation à cette fin de chacun des biens qui le composent;
15. prescrire des catégories de prêts, de placements ou d'opérations pour l'application de la partie IX;
16. prescrire la limite, soit en dollars, soit en pourcentage, du total de l'actif qui peut être placé dans un bien ou une catégorie de biens et, lorsqu'une limite est imposée par la présente loi relativement à un bien ou à une catégorie de biens, prescrire des limites plus restrictives que celles énoncées à la présente loi;
17. prescrire le mode de calcul des liquidités de la compagnie;
18. régir la délivrance des titres subalternes;
19. régir l'établissement et l'exploitation des fonds en fiducie collectifs et le placement dans ces fonds des sommes détenues en fiducie;
20. exiger la souscription de cautionnements par les administrateurs, dirigeants, mandataires et employés de la compagnie ainsi que la souscription d'assurances à leur égard et à l'égard des biens dont elle a la propriété ou qui sont confiés à sa garde;
21. régir les activités de la compagnie inscrite dans le cadre de ses rapports avec ses mandataires, ainsi que les rapports entre ces derniers et la compagnie;
22. désigner des lois et des ordonnances pour l'application de l'alinéa 162 (2) a);
23. prescrire un pourcentage pour l'application de l'alinéa 168 (1) a);
24. régir l'établissement de réseaux par des compagnies inscrites aux fins de fournir des services financiers à leurs clients;

R.S.O. 1980,  
c. 466

25. prescribing information to be provided to security holders of a corporation and to persons on whose behalf a registered corporation holds securities of a body corporate as fiduciary or agent;
26. prescribing the conditions upon which a corporation may invest its funds in the fully paid voting shares of a dealer within the meaning of the *Securities Act*;
27. prescribing procedures related to the payment of unclaimed deposits to the Treasurer of Ontario under section 220 and for claiming them from the Treasurer, requiring provincial corporations to give notices to depositors in relation thereto and to keep such records thereof as are prescribed;
28. permitting registered corporations to make loans to employees as described in subsection 142 (2) and prescribing the maximum amount of any such loan;
29. prescribing terms and conditions for the establishment and operation of subsidiaries;
30. relating to reports by auditors;
31. prescribing qualifications for appointment as an officer of a corporation;
32. prescribing duties for audit committees and investments committees;
33. prescribing any matter referred to in this Act as being prescribed by the regulations.

Return of  
security

**224.** A corporation that was required by a private Act to post any amount as security as a condition of registration may apply to the Superintendent to have the security released and, if the Superintendent approves of the release, the security shall be returned to the corporation.

Exemption  
from  
minimum  
capital  
requirements

**225.** The Superintendent may exempt a trust corporation that in other respects complies with this Act from compliance with the minimum capital requirements under subsection 10 (5) or clause 33 (a), subject to such terms and conditions as may be prescribed and to such terms and conditions as the Superintendent may impose, so long as the trust corporation is offering its services primarily in a community that, in the



25. prescrire les renseignements qui doivent être fournis aux détenteurs des valeurs mobilières d'une compagnie et aux personnes pour le compte desquelles la compagnie inscrite détient, à titre de fiduciaire ou de mandataire, des valeurs mobilières d'une personne morale;
26. prescrire les conditions sous lesquelles une compagnie peut investir ses fonds dans les actions assorties du droit de vote et entièrement libérées d'un courtier au sens de la *Loi sur les valeurs mobilières*;
27. prescrire des procédures relativement au versement au trésorier de l'Ontario des dépôts non réclamés aux termes de l'article 220 et relativement à la réclamation de ces dépôts auprès du trésorier, et exiger que les compagnies provinciales donnent des avis aux déposants à l'égard de ces questions et qu'elles conservent à ce sujet les dossiers qui sont prescrits;
28. permettre aux compagnies inscrites de consentir des prêts à leurs employés, aux termes du paragraphe 142 (2), et prescrire le montant maximal d'un tel prêt;
29. prescrire les conditions relatives à l'établissement et à l'exploitation de filiales;
30. régir les rapports des vérificateurs;
31. prescrire les qualités requises pour accéder au poste de dirigeant d'une compagnie;
32. prescrire les obligations qui incombent aux comités de vérification et aux comités de placements;
33. prescrire toute question qui selon la présente loi est prescrite par les règlements.

L.R.O. 1980,  
chap. 466

**224** La compagnie dont une condition de l'inscription, imposée par une loi d'intérêt privé, était de fournir un cautionnement peut demander au surintendant de faire libérer le cautionnement. Si le surintendant donne son approbation à la libération, le cautionnement est retourné à la compagnie.

Le cautionnement est retourné à la compagnie

**225** Sous réserve des conditions prescrites et de celles que peut imposer le surintendant, celui-ci peut dispenser la compagnie de fiducie qui s'est par ailleurs conformée à la présente loi de l'observation des normes de capital minimal fixées par le paragraphe 10 (5) ou par l'alinéa 33 a), tant que ses services sont offerts principalement à une collectivité dont les besoins,

Dispense d'observer les normes de capital minimal

opinion of the Superintendent, would not otherwise be adequately served by a trust corporation.

Transition,  
capital levels

**226.**—(1) Notwithstanding any other provision of this Act, where a corporation, immediately before the coming into force of clause 33 (a) of this Act, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, the minimum capital requirements under that clause shall not apply to the corporation until the 1st day of January, 1991 so long as the corporation maintains the minimum capital requirements required by the predecessor of this Act or such greater minimum capital requirements as the Lieutenant Governor in Council may order.

Extension  
of time

(2) The Lieutenant Governor in Council may extend the period for compliance with minimum capital requirements under clause 33 (a), beyond the 1st day of January, 1991, subject to such terms and conditions as the Lieutenant Governor in Council may impose.

Transition,  
directors

(3) Notwithstanding any other provision of this Act, the board of directors of a loan corporation or a trust corporation in office immediately before the coming into force of this section may continue in office until the annual meeting next following the coming into force of this section.

Transition,  
quantum  
limits  
on  
investments

(4) Notwithstanding that an investment was made by a registered corporation or any of its subsidiaries before the coming into force of this section, the corporation or subsidiary shall divest itself of the investment within twelve months of the coming into force of this section, if the investment, had it been made after the coming into force of this section, would exceed any limit imposed by section 163, 167 or 168.

Duration of  
authority to  
carry on  
business

**227.**—(1) No corporation shall carry on the business of a loan corporation or of a trust corporation after the 1st day of July, 1996.

Extension  
of time

(2) The Lieutenant Governor in Council may make regulations changing the date set out in subsection (1) to a date not later than the 1st day of July, 1997.

## PART XV

### AMENDMENTS, REPEALS, COMMENCEMENT, SHORT TITLE

**228.**—(1) Section 1 of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

de l'avis du surintendant, ne seraient pas autrement satisfaits de façon convenable par une compagnie de fiducie.

**226** (1) Malgré toute autre disposition de la présente loi, les normes de capital minimal fixées par l'alinéa 33 a) ne s'appliquent pas avant le 1<sup>er</sup> janvier 1991 à la compagnie qui était, immédiatement avant l'entrée en vigueur de cet alinéa, inscrite en vertu de la *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980. La présente disposition s'applique tant que la compagnie observe les normes de capital minimal fixées en vertu de la loi que la présente loi remplace, ou les normes plus élevées décrétées par le lieutenant-gouverneur en conseil.

Dispositions  
transitoires  
relatives aux  
normes de  
capital

(2) Le lieutenant-gouverneur en conseil peut, sous réserve des conditions qu'il fixe éventuellement, proroger au-delà du 1<sup>er</sup> janvier 1991 le délai imparti aux compagnies pour se conformer aux normes de capital minimal fixées par l'alinéa 33 a).

Prorogation  
du délai

(3) Malgré toute autre disposition de la présente loi, le mandat des administrateurs de la compagnie de prêt ou de la compagnie de fiducie qui étaient en fonction immédiatement avant l'entrée en vigueur du présent article se poursuit jusqu'à l'assemblée annuelle qui suit l'entrée en vigueur du présent article.

Dispositions  
transitoires  
relatives aux  
administrateurs

(4) Même dans le cas des placements effectués avant l'entrée en vigueur du présent article, la compagnie inscrite ou sa filiale est tenue de se dessaisir, dans les douze mois de l'entrée en vigueur du présent article, des placements dont le montant dépasserait la limite fixée par les articles 163, 167 ou 168, s'ils avaient été effectués après l'entrée en vigueur du présent article.

Dispositions  
transitoires,  
limite relative  
aux montants  
des  
placements

**227** (1) Nulle compagnie ne peut poursuivre les activités d'une compagnie de prêt ou d'une compagnie de fiducie au-delà du 1<sup>er</sup> juillet 1996.

Date limite  
de l'exercice  
de ses  
activités

(2) Le lieutenant-gouverneur en conseil peut, par règlement, porter la date fixée au paragraphe (1) à une date qui n'est pas postérieure au 1<sup>er</sup> juillet 1997.

Prorogation  
du délai

## PARTIE XV

### MODIFICATIONS, ABROGATIONS, ENTRÉE EN VIGUEUR, TITRE ABRÉGÉ

**228** (1) L'article 1 de la *Loi sur le ministère des Collèges et Universités*, qui constitue le chapitre 272 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

## Definitions

**1.** In this Act,

1980-81,  
c. 40 (Can.)  
1987, c. 33

R.S.O. 1980,  
c. 102

“financial institution” means a bank named in Schedule A or B to the *Bank Act* (Canada), a loan corporation or a trust corporation registered under the *Loan and Trust Corporations Act, 1987* or a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*;

“Minister” means the Minister of Colleges and Universities;

“Ministry” means the Ministry of Colleges and Universities.

(2) Subsection 8 (1) of the said Act is amended by striking out “chartered bank to which the *Bank Act* (Canada) applies, or by a credit union, as defined in the *Credit Unions and Caisses Populaires Act*” in the fifth, sixth and seventh lines and inserting in lieu thereof “financial institution”.

(3) Subsection 9 (1) and clauses 9 (2) (a), (c), (d), (h), (i) and (j) of the said Act are amended by striking out “bank or credit union” wherever that expression occurs and inserting in lieu thereof in each instance “financial institution”.

(4) Clauses 9 (2) (e), (f) and (g) of the said Act are amended by striking out “banks or credit unions” wherever that expression occurs and inserting in lieu thereof in each instance “financial institutions”.

**229.** Subparagraph ii of paragraph 32 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1987, c. 33

- ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act, 1987* and consists of a common trust fund as defined in section 1 of that Act.

## Repeals

**230.** The following are repealed:

1. The *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980.
2. The *Loan and Trust Corporations Amendment Act, 1982*, being chapter 62.
3. Section 30 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.



**1.** In this Act,

Definitions

“financial institution” means a bank named in Schedule A or B to the *Bank Act* (Canada), a loan corporation or a trust corporation registered under the *Loan and Trust Corporations Act*, 1987 or a credit union or caisse populaire incorporated or registered under the *Credit Unions and Caisses Populaires Act*;

1980-81,  
c. 40 (Can.)  
1987, c. 33

R.S.O. 1980,  
c. 102

“Minister” means the Minister of Colleges and Universities;

“Ministry” means the Ministry of Colleges and Universities.

(2) Le paragraphe 8 (1) de la loi est modifié par substitution, à “chartered bank to which the *Bank Act* (Canada) applies, or by a credit union, as defined in the *Credit Unions and Caisses Populaires Act*” aux cinquième, sixième et septième lignes, de “financial institution”.

(3) Le paragraphe 9 (1) et les alinéas 9 (2) a), c), d), h), i) et j) de la loi sont modifiés par substitution, à “bank or credit union” partout où figure cette expression, de “financial institution”.

(4) Les alinéas 9 (2) e), f) et g) de la loi sont modifiés par substitution, à “banks or credit unions” partout où figure cette expression, de “financial institutions”.

**229** La sous-disposition ii de la disposition 32 du paragraphe 1 (1) de la *Loi sur les valeurs mobilières*, qui constitue le chapitre 466 des Lois refondues de l'Ontario de 1980, est abrogée et remplacée par ce qui suit :

- ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act*, 1987 and consists of a common trust fund as defined in section 1 of that Act.

1987, c. 33

**230** Sont abrogées :

Abrogations

1. La *Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 249 des Lois refondues de l'Ontario de 1980.
2. La *Loi de 1982 modifiant la Loi sur les compagnies de prêt et de fiducie*, qui constitue le chapitre 62.
3. L'article 30 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64.



Commence-  
ment

**231.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**232.** The short title of this Act is the *Loan and Trust Corporations Act, 1987*.

**231** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en  
vigueur

**232** Le titre abrégé de la présente loi est *Loi de 1987 sur les compagnies de prêt et de fiducie*. Titre abrégé











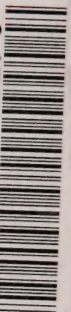












3 1761 11470208 7